A. R. Hart -

STUDIES OF FAMILY LIFE.

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STUDIES

OF

FAMILY LIFE

A Contribution to Social Science

BY

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GRADUATE THEOLOGICAL UNION
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LONDON
GRANVILLE MANSIONS
ORCHARD STREET, W.

NEW YORK
CATHOLIC PUBLICATION SOCIETY CO.
BARCLAY STREET

1886

PREFACE.

THIS book is a series of studies of family life, a number of facts, that are to be found scattered elsewhere, brought together and arranged. For it seems to me that the various constitutions of Homes are as much deserving of study as the various constitutions of States; and that in the one department of science, as in the other, what in these times is most needed is a plain statement of the facts. So it is real life I have tried to set forth, not words or fancies. And my aim has been to help in a right judgment being formed upon family life, both past and present, that we may not take good for evil, or say some particular institution is quite needful, when, in truth, there is excellent family life without it; or declare some particular evil inevitable, when there are instances of its absence; or follow after theories of change and progression inconsistent with facts. The examples of

family life which seem most instructive, if we have this end in view, are those which I have selected.

Now as family life is chiefly made up of the relations between men and women, between parents and children, and between brothers and sisters and other collaterals, some of the chief points to be studied are the following:—How marriages are settled, between whom they are permitted, what is their effect on property, how far women have separate property, what is the position of widows, whether there is monogamy or polygamy, whether divorce is allowed, and if so, for what causes and with what effects, and what is the position of the wife in the household, what measure she receives of honour and affection.

Again, we must ask the extent of the father's power over his children, whether these children can have separate property, whether the father can make a will, and if so, how great are his powers of disposition, and whether he can supplement lack of offspring by adoption. We must ask, also, how the children are brought up, the character of the homes and the schools, and then how the parents fare in old age, and whether all relations between them and their children are brought to an end by death.

Finally, in the relations between brethren, the two

great points of interest are inheritance and community, that is to say, how the property of a deceased man is distributed, and whether the family is dissolved on the death of its head, or remains more or less united, and makes use of the family patrimony more or less in common.

On the other hand, the curiosities of family life—a multitude of superstitions and fancies, of customs and ceremonies, some grotesque, others picturesque, some innocent, others evil—need not occupy us; for what is curious is not necessarily instructive: the ceremonial and symbolism of family life are in the main not causes but effects; and our business is with causes; nor, if the principles of law and religion are sound, that concern husband and wife, father and child, brother and sister, need we fear any serious mischief from the trimmings and trappings of life.

The order of the following studies requires a word of explanation. They are all arranged in three groups, called Fore-Christian, Christian, and After-Christian. Now by Fore-Christian I mean, not only societies previous to Christianity, but also those which have never passed through Christian influence; for example, the modern Hindus and Chinese; whereas by After-Christian I mean societies dwelling in regions or belonging

to races once Christian, and who follow principles of religion or philosophy that profess to be better than those of Christianity. Whether I am justified in making such a classification, is not for me to judge. It is for those readers to pronounce judgment who have studied the evidence.

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STUDIES OF FAMILY LIFE.

Part I.

FORE-CHRISTIAN FAMILIES.

I.—The Chinese.

§ 1. The Chinese family has a claim to be taken first, because of the number of mankind it embraces and the length of time it appears to have existed in substantially its present form. The chief and the usual features are as follows.[1] In the whole empire, with a population of at least 300,000,000, there are less than 3000 surnames (*Sing* = the Latin *nomen*). All having the same surname are descended through males from a common though very remote ancestor, and no two persons having the same surname can marry. Thus the intermarriage of *agnates* (blood re-

1 What follows is gathered chiefly from E. Jamieson, *Translations from the Lü-Li* in the *China Review*, beginning vol. viii. p. 1 (July 1879); also from the monograph of a Chinese Joint-Family given in *Les ouvriers des deux mondes*, tome iv., Paris 1863; from J. H. Gray, *China*, 2 vols., London 1878; and from S. Wells Williams, *The Middle Kingdom*, edit. of 1883.

lations through males), however distantly connected, is forbidden. On the other hand, *cognates* (blood relations through females), even as near as first cousins, can intermarry, provided always that the bride and bridegroom are of the same generation. Thus you may marry your first cousin on your mother's side, but not the daughter of this cousin; for the daughter is a step lower down on the genealogy than you are. Further, there are certain restrictions to the intermarriage of those related by affinity (relations by marriage); in particular, you may never marry the widow of any of your agnates. No doubt these rules are in practice somewhat relaxed. For the rich often take subordinate wives whose parentage is unknown; while the poor often, I believe, disregard with impunity the rules about the same name and the different generation. Still the intermarriage of near relatives is seriously checked; and as the "surnames" are so few, whole villages having sometimes only one between them, there is not a local stagnation but an active circulation of the national blood.

To die unmarried is considered one of the greatest calamities; consequently, there is scarce an instance of celibacy among laymen, and early marriages are the rule, and are entirely settled by the parents or elder brethren of the parties. Before marriage there is the greatest reserve between the sexes; and in the rural districts it is almost unheard of for a young girl to go astray.

§ 2. Property is not greatly affected by marriage; for it is a fundamental rule of inheritance that no woman inherits, and thus there can be no heiress. The chief expense occasioned by marriage falls on the families both of the bride and of the bridegroom in the shape of marriage festivities, with procession, music, and feasting; and they will sell land or borrow money rather than forego the accustomed solemnities. Less important are two other money matters. One is the delivery by the bridegroom or his family of a certain sum of money to the father of the bride. The amount is from four to eight pounds (English) among the peasantry, and may be twenty pounds or more among the rich.[1] There is no recognised English word for such payments, those, namely, made from the bridegroom's side to the parents or family of the bride; but we must have a word, for we shall meet these payments in many societies, and the best I can think of, and which I shall use as a technical term, is *bride-money*.

The remaining money matter in a Chinese marriage is the outfit of the bride, to whom clothes and articles of the toilet, linen, and sometimes handmaids, are given by her own father or family; but such gifts are only in the nature of bridal *outfit* or *trousseau*, and are

[1] Among the poor the expense of marriage is lessened by parents paying a certain sum and receiving a young girl, whom they bring up as a daughter till she is marriageable, thus securing her services in the household. Similarly, a girl affianced is sometimes sent to be part of the household of the boy's parents.

not of the amount or character to constitute a *marriage portion* or *dowry*, which should imply that a permanent source of revenue is brought by the wife, or at least a house or sum of money sufficient to deserve the title of her portion of her father's inheritance.

The position of the Chinese wife in regard to property is therefore subordinate, as she has neither separate property nor marriage portion. But there is a change at the death of the husband, and the widow assumes a conspicuous place. For not merely is widowhood a state that the Chinese delight to honour, but in the matter of property she has the great prerogative of keeping all her sons around her in a family community and forbidding any partition of the inheritance. If she permits it she lives by turns with each of her sons. This mode of providing for the widow reminds us of the English and European common law of the Middle Ages, that gave her for her life a large share of her husband's property (dower, terce, *doarium*, *Wittwengebühr*), and is not at all like the plan of marriage settlements or of separate property for married women among ourselves.

§ 3. If asked whether the Chinese do or do not allow more than one wife, we cannot answer simply yes or no. A man may only have one *tsí*, and this means wife; and to take a second *tsí* while married to the first, is illegal, void, and impossible. But then, besides this one undoubted wife, a man may have one

or more *tsieh;* and if these are not to be called wives, it seems still more unfit to call them concubines. There is a strict though not so elaborate ceremonial in marrying them, and their children have an equal right with those of the regular wife to the paternal succession. But these are subordinate (always in theory, if not in practice) to the *tsí*, to whom they may often stand somewhat as Hagar to Sarah; the husband chooses them himself, whereas the *tsí* is chosen for him by his parents; he can take one of lower social standing; and after death their memorial tablets are not admitted into the ancestral hall. The best mode of adapting our language to the facts, is to call them *sub-wives*, and say a Chinese can have but one wife but several sub-wives. As a fact such sub-wives, rare among the peasantry and in the Northern Provinces, are frequent among the richer classes in the south, notably traders, who take a sub-wife with them on their journeys and leave the wife to take care of the home. And in a demoralised city like Canton it is not surprising that the subordinate position of sub-wives has not been maintained, and that much domestic discord and misery has been the result. But we must not judge of the whole from a small part; and still less must we think ordinary Chinese home-life the least like that of the imperial household, where the emperor, besides his empress, has wives and concubines served, like the Persian royal household of old, or the Turkish seraglio, by a multitude of eunuchs.

But no one else, if I am not mistaken, possesses eunuchs, except some of the imperial family and a few nobles; and such institutions are of the court and the Manchus, and cannot be said to belong to the Chinese people.[1]

The same, however, cannot be said of divorce, for marriage can be dissolved by the mutual consent of husband and wife; moreover, for certain specified offences, which have to be proved before a family council, the husband can put away his wife. She usually returns to her family; but in the case of a sub-wife this resource is often unavailable, and for her a divorce means often a life of beggary or prostitution; nay, the aggrieved husband seems to have the power to sell her to a brothel-keeper; though this, indeed, is sometimes merely sending her back to the place whence he received her. And to have done with these subjects, there seems an agreement of competent observers on the difference between the morality of the interior of China and the rural districts, and on the other hand the large towns, especially the sea ports, filled with brothels and licentiousness.

[1] The emperor, besides his empress, can have eight sub-wives, called queens, besides mere concubines. The empress and queens are generally chosen from the daughters of Manchu officers. Remember, though the succession to the empire is hereditary in the male line, there is no crown prince, as the emperor nominates what son he likes; also the princes of the blood and the numerous members of the imperial house form a nobility apart from the Chinese people, having many empty honours, but no real wealth or power. (Wells Williams, *l.c.* pp. 407, 408; Gray, *l.c.* pp. 23–25.)

§ 4. But even in the towns, though the position of the wife has greatly suffered by the prevalence of vice, the position of the mother, above all of the widowed mother, remains very high. She receives the greatest reverence from her sons; they must divorce their wives if these are disobedient to her; she is honoured by a rigorous mourning three years after her death, and the tablets on which her name is inscribed receive perpetual worship from her children. Moreover, she shares with the father in the protection given against the violence of undutiful children. If a man beats his mother the offence is held almost too frightful to be contemplated: it is a tremendous sacrilege, that involves not merely the death of the immediate offender, but severe sometimes even capital punishments of his kindred, and the infliction of penalties on the neighbourhood (Gray, *China*, i. pp. 237, 238). In England the law would be satisfied by a few weeks imprisonment of the offender; and I mark this contrast to draw the moral, which is, not to make general assertions on the social condition of nations, saying, for example, that the position of women is higher in England than in China, but to speak more in particular and with more accuracy, and to say, for example, that women in the character of mother and of widow receive more honour and power in China than in England, but in most other characters less.[1] Again in the matter

[1] Not indeed in all, for the courteous treatment of women (and children) in a Chinese crowd might be imitated with great advantage among ourselves.

I am coming to, the power, namely, of the father, any one who knows the laws and customs of England will see that, though the Chinese father has in many respects far more power than the English father, in some respects he has less.

Reverting to the position of women, although in the Book of Odes (one of the great Chinese Classics) it is said of them: "their part alike from good and ill to keep;" and though the great motive to study, success at the examinations, which is the only way to office, cannot effect them, still it is held creditable for a woman to have literary attainments; the heroines in novels are usually credited with them; there are seminaries and tutors for girls, many women authors in Chinese literature, and many lives of women among the biographies of celebrated people.

§ 5. The father's authority over his children is very great among the Chinese; short of life and death, there is scarce any limit to it; and he is not severely dealt with if his child die under the punishment he inflicts; while the slaughter or exposure of infant children is a common practice towards female infants, not in all China, but in large portions of it, and is only forbidden or reprobated in certain localities. Parents can sell their children, and thus poor girls are sometimes sold to speculators, to be brought up as sub-wives for the rich or even for prostitution. Another transaction, though legally similar, is morally very

different, namely, when a girl among the peasantry is handed over to a neighbour who makes a payment to her parents, and brings her up as a wife for his son. Children, moreover, never outgrow parental authority; their marriage is regulated for them without it being necessary to consult them, and, indeed, at an age when they are too young to be trusted to make a reasonable choice; and a marriage without the consent of the parents is void. A son remains a minor during the life of his father, who must sign the contract if the son is to acquire any property, and for whose debts the son is a security. Nor will the highest offices exempt the son from filial subordination, and he must leave these offices to go through a three-years' mourning upon the death of his parents. For not merely during their old age must the parents receive care and obedience, but after death an honourable funeral, and the observance of a long and serious mourning, and repeated acts of worship; for they are now numbered among the ancestors whose shrine is in every house, and whose worship, amid the frivolities and formalities of Chinese religion, is genuine and hearty.

The respect and obedience due to the father are extended, as we have seen, in no slight measure to the mother; and are also due in some degree to all ascendants, to elder relations, as uncles, and, a matter of great practical importance, due to elder brothers from younger. Old age, moreover (looked on as a

sign of peculiar favour from Heaven), is honoured to a degree that is perhaps unexampled. A dress of honour is allowed to those over seventy years old, and not seldom a monumental arch is built at the cost of the imperial treasury in honour of those over eighty-one.

Mark also that the rules of filial obedience are supplemented by voluntary affection; and it is not rare to see acts of filial devotion, a son, for example, taking on himself the punishment due to a father's crime, or cutting a piece from his own flesh to have it mixed with the medicine for a sick parent.

§ 6. But let us not think that all the duties are on the side of the children, all the rights on the side of the parents. Though filial piety, enforced by unanimous public opinion and stringent laws, is the mainspring of society, the father has a heavy responsibility linked to his power, and is liable to dishonour and punishment for the misconduct of his son. Nor can he dispose of his property as he pleases. There are limits to his power of alienation even during his lifetime. Formerly the sale of the family patrimony was only allowed on the plea of necessity; and though this plea survives at present only as a phrase, not as a fact, there are still checks from rights of pre-emption among kindred, from prohibitions of the sale to a creditor, and from mortgages being impossible. The great method of borrowing among the Chinese is by

pledge, that is, by handing over movables to the lender as a security for repayment; and the most conspicuous buildings in the towns are the solid and gigantic pawn-shops. The only way to apply this system to the land is for the would-be borrower to sell his land out and out with all the responsibility (as of tax-paying) attached to it, and to receive to himself only the right to have it reconveyed to him on his repayment of the purchase money. So there are none of the facilities that allow an English landowner to live, as they say, in grand style, and at his death leave nothing to his children but an encumbered estate. And among the yeomen and peasantry the difficulty of a man changing his tithing or hundred in which he must be registered, and of getting, so to speak, a new settlement elsewhere, is a check to any reckless selling or squandering.

§ 7. The Chinese father, moreover, if he is restricted during life, is still more so in his powers of disposition after death. The family property is all that the father has inherited, and all that he or his sons have acquired; for all earnings are brought into a common fund. It is, indeed, possible for a son who leaves the family that he may fill some official post or may trade in some distant region, to be separately established, so that he keeps his own earnings and has no share in the family property when it is divided. But this is less an exception to than a way

of applying the general rule, that the sons have an expectant interest in the family property of which they cannot be deprived. The only mode of disinheriting is the extreme measure of solemnly, before the assembled kindred, expelling an incorrigible son from the family. Wills indeed exist, but differ in many ways from the will of modern English Law or the *testamentum* of the classical Roman Law. They are not secret documents whereby the testator can dispose as he likes of the whole or of much of his property, but are public instructions, either verbal or written, containing moral and practical advice, and arranging the details of how the rules of inheritance are to be applied so as to avoid disputes and hardship. For example, the father can say which of the sons is to be the head manager of a joint business. And he has certain powers of granting legacies, and of deciding the sum that shall be set aside to defray the expenses of domestic worship.

To die without male children, who will venerate their father's tablets, is held a great calamity, and early marriages, the permission of divorce on the ground of sterility, and the permission of marrying sub-wives, are means to avert it. In addition, a childless man is allowed to take to himself a son by adoption, which is a solemn and public ceremony, at which the adopted person makes obeisance before the ancestral tablets of his new family. But you may not choose at pleasure an adopted son: he must be

your kinsman through males (an agnate), and in the same generation as your son would be if you had one, and must be from among nearer rather than more remote kindred. Thus your first choice is among the sons of your brothers, your second among the sons of the sons of the brothers of your father, and so onwards. There are also certain exceptional cases, and a man without sons may make an informal adoption of his son-in-law, who becomes entitled to succeed to half his goods, the legal heir taking the other half.

§ 8. In the relations among brethren in China, family communities are a striking feature. The law, as we have seen, will not allow a partition of the property after the death of the father unless the widow gives her consent. And in practice it is very common, especially among the peasantry, for a family to remain several generations in community, and adding, when it is needful, fresh rooms at each marriage to the dwelling-house. The technical term for such a community is *joint-family;* they consist in China of perhaps, on an average, about sixteen persons, but sometimes reach the number of forty or more. When they become too numerous, or some irreconcilable discord arises, the long-deferred partition is carried out. Meanwhile there are several reasons for their continuance that do not exist in Europe. One is the compulsory apprenticeship, so to speak, in the art of

working in community, to which they are bound till the death of both parents. Another is the community of domestic worship, which is rather knit together than loosened by the death of a parent. A third reason is the sentiment and law and practice of deference to age, and of obedience on the part of a younger brother to an elder brother. And the practical Chinese are not slow to see the vast saving of labour and wealth by working in common and enjoying in common, as well as the advantage of this most pleasant, simple, and effective method of mutual insurance.

§ 9. Even where there is no longer a family community, relationship is not forgotten. For all who bear the same surname not merely are forbidden to intermarry, but form a sort of clan like the Roman *gens*. In parts of the empire it is customary for the members to dine together on the 15th day of the new year; there is periodical solemn worship at the tomb of the founder of the clan, the expenses being defrayed out of property set apart for the purpose as an endowment of the ancestral halls; poor members are sometimes allowed some help from this property; and there must be some mutual responsibility for crime, since in the year 1865 the head of a clan was put to death because one of the members had beaten his own mother.

The stress laid upon being of the same generation

is another bond of family union. Among your agnates, if I understand rightly, all in the same generation as yourself are your brothers or sisters, all in the same generation as your father are your uncles or aunts, all in the same generation as your children are your nephews and nieces. You can only adopt, as we have seen, an agnate of the generation next below you; and among your cognates you can only marry one of your own generation. Nor is it unfrequent for brothers to have, besides their personal names, a common name confined to themselves, and distinct from the surname which, of course, they share with their father and their children.[1]

§ 10. The rules of inheritance are, I believe, the same whether applied at the death of the parents or at a subsequent partition. There is primogeniture, but not in the English sense; and equal partition, but not in the French sense. In a way we can say the eldest brother holds the property in trust for the rest; but in fact, the terms of Western Law are inapplicable to the situation. The eldest son is distinguished from his brothers in being their head

[1] The surname is put first, the personal name last, and the "generation name" is inserted between them. For example, a Chinaman *Cha-Kar-Ng* had seven sons, whose full titles were *Cha-Yow-Mun*, *Cha-Yow-Shing*, *Cha-Yow-Yan*, *Cha-Yow-Sün*, *Cha-Yow-Tak*, *Cha-Yow-Him*, and *Cha-Yow-Yeung*. Here *Cha* was the surname common to father and sons, *Kar* was the father's "generation name," *Yow* the generation name of the sons, and the other names were the personal, or, as we should say, Christian names of the individuals.

and ruler as long as they live in community; further, in having the custody of the ancestral tablets and other religious insignia, and in taking a leading part in family worship (performance of the *sacra*); and this second pre-eminence descends on his death to his eldest son, who thus, in matters of religion, is a more important person than his uncles to the common ancestor (namely, their father and his grandfather). A third distinction of the eldest son is, that if there are any unmarried sisters, they form part of his household. Now in view of the second and third distinctions, the eldest son sometimes or often receives a rather larger share than his brothers. I think there is no certain amount fixed by law, but the father has the power of fixing it, and if he does not, I imagine it is settled by a family council. With this exception, the property (after setting apart a certain sum to pay for marriage solemnities if there are still any unmarried daughters) is divided equally among all the sons without distinction, whether their mother was the wife or a sub-wife. Daughters, as I have already said, receive neither dowry nor inheritance. The sons of deceased sons take, I think, not *per capita* but *per stirpes*, that is, they divide among them what would have been the share of their father. Failing descendants (an unlikely contingency), collaterals, as far as I understand, take the property and follow the order already explained when I spoke of adoption.

§ 11. The result of the foregoing constitution of the family, in particular of ancestor worship and the rules of inheritance, has been to give a permanence to each family and groups of families unexampled in history. It is part of education to learn by heart the list of surnames (or clan names) most in use. When a woman is married she drops her personal name, takes her husband's surname, and uses her former surname as her personal (or, as we say, Christian) name. In each village is kept the Family Book (*Kia-Pou*), in which are registered all the births, deaths, and marriages in each family, and from which the names of undutiful or criminal members are erased by order of the family council. It is a sacred document; copies of it are taken by families that leave the neighbourhood; and a book of this kind was found by Father Ravary that had begun in the year 926 and was still being continued, though in the tenth century of its existence (Ribbe, *Vie domestique*, ii. pp. 84–87). By their joint families and spade-husbandry the Chinese are able to live a large number on a small plot; and when at last the descendants of the first settler become too numerous, they have a strong inducement in their religion and law not to break up the ancestral home, but to leave it in the hands of the eldest branch, and to send out swarms of the younger branches to set up new homes elsewhere.

II.—The Jews under the Judges.

§ 12. For several centuries after their settlement in Palestine the Jews in their family life show many resemblances to the Chinese, but also many differences, and a brief comparison will not be out of place to learn once for all that because two nations are strikingly alike in many domestic matters, we cannot infer that they are alike in the rest, or that they will go through the same changes.

Honour and obedience were due by the Mosaic Law, like the Chinese, to the mother as well as to the father, and capital punishment was inflicted for any great violations of this duty. The Law bid respect be shown to old age, and protected those suffering from blindness and deafness, the characteristic infirmities of the old. Great honour was paid to widows, and in this, as well as in the severe treatment of the adulteress and her paramour, the Jews were much like the Chinese. Moreover, as in China, there was a partial and limited polygamy. But among the Jews, while it existed, it was restrained in its moral and physical effects by the laws of succession and of ceremonial; it was intended to disappear (as in fact it did) when the Jews were no longer a conquering people with troops of female captives at their disposal; and the praises and picture of a good wife that we find in the Book of Proverbs, and again in

Ecclesiasticus, show that married women, though subordinate to their husbands, were in a position of honour and authority. Divorce, indeed, was allowed to the Jews by the Mosaic Law, but not unreservedly. A seducer was obliged to marry the girl he had wronged, and never could put her away; if a captive was divorced, she gained her freedom; if you uttered certain calumnies against your wife, you lost for ever the power of divorcing her; and it was only one opinion, and an abuse, that allowed divorce at the good pleasure of the husband. Thus in many ways the position of women was far higher among the Jews than among the Chinese.

§ 13. The most striking contrast between the two peoples is to be found in certain rules of intermarriage and female succession. If there were sons, the position of daughters was indeed much the same as in China. They had no claim to any share of the inheritance, and took away no portion as a dowry. Their very outfit at their marriage was defrayed, not by their father or brethren, but by a payment on the part of the bridegroom. We need, by the way, a technical term for such payments, and for want of a better I will use the term *marriage-money*.[1] But if

[1] *Marriage-money*, therefore, differs from *bride-money* in its destination, being for the use of the bride, and not for the use of her father or family; and it differs from *bridal-outfit* (or *trousseau*) in its origin, being derived from the bridegroom's side, not from the bride's. The Hebrew term for this marriage-money was *Mohar*.

there were no sons, then, instead of the Chinese expedient of adoption, daughters were called on to inherit, and at the same time were only allowed to marry a member of their own tribe. The husband of the eldest daughter (perhaps also the husbands of the other daughters) had to give up his own family name, and take that of his wife. He would therefore be a younger son, I expect often a first cousin through males; and in this way the property could not leave the tribe, nor could there be any merging of inheritances.

If there were no daughters an effort was still made to give the dead man an heir to his name by means of the Levirate marriage. His young widow had a claim to be married by his brother, at any rate, if they were all living together as brethren in a joint family; and the eldest child of this union took the property and bore the name, not of his own father, but of his mother's former husband.[1] Notice that the Jews used these means, namely, the succession of women, the intermarriage of agnates, and the remarriage of widows, all so contrary to the practice of the Chinese,

[1] The Levirate marriage cannot be said in the full sense to be compulsory, for the man could escape the necessity by submitting to certain humiliating ceremonies (*Deut.* xxv. 7–10), and the return of the young and childless widow to her father's house is spoken of as though there was nothing strange about it in *Levit.* xxii. 13. On the other hand, we see from the fourth chapter of the Book of Ruth that the obligation, such as it was, was extended by custom (for the law says nothing of it, Deut. xxv. 5–6) to other relatives, even those living apart.

to reach much the same end, that no man's line might become extinct.

§ 14. The relations of Hebrew parents and children were in many ways similar to those in China; only the father's power was less arbitrary, the bad son in the last extremity was still to be taken before the elders, and then at last stoned by the people; moreover, infanticide was forbidden, and ancestor-worship held idolatrous. Then the powers over property were less. Alienation was restricted by the rights of pre-emption and redemption on the part of relatives, and by the general restoration of all landed property at the jubilee, that is, every forty-ninth year. The individual holder had really no more than a life interest; it was in keeping with this that the utmost possible time for which land could be alienated was the interval between coming of age and the normal end of life, that is, between 20 and 70; and fair dealing was much more likely when the number of years to be disposed of was fixed and certain (see *Levit.* xxv. 15-17), than if they had had to do with uncertain quantities, and to make, without our actuarial tables, calculations of probabilities).[1] Again, the Hebrew had not even the limited testamentary powers of the Chinese father, wills being a later innovation, probably due to contact with the Romans. You might hand over your disobedient son to be stoned

[1] *The Church Quarterly Review*, vol. x. p. 411.

to death, but short of this you could not disinherit him.

§ 15. Inheritance, as I have already said, was much like that of China if there were male children to succeed. Only the position of the elder son and his right to a larger share was more clearly defined among the Jews; he could not be supplanted by any other son, even if the father divided the inheritance in his own lifetime; but the eldest son took a double portion of all goods, having to support his sisters as long as they were unmarried.

Whether joint families were common cannot be decided with absolute certainty, but I think there is a strong presumption of their frequency and certainly some traces of their existence. The "brethren dwelling together" is made a condition (*Deut.* xxv. 5) for the Levirate marriage, and is not spoken of as an improbable contingency. Again, the history of Michas given in the 17th and 18th chapters of Judges, seems to indicate a joint family, with the mother of Michas at its head, and a group of houses whose inmates could furnish a body of fighting men. And we see David summoned to return to the annual family sacrifice at Bethlehem (1 *Reg.* (*Samuel*) xx. 6, 29). Probably also during the three centuries that followed the conquest of Palestine many joint families expanded into village communities, holding much of their land and doing much of their work in common; indeed

there is difficulty in distinguishing at one time the village from the family. In course of time the traces of village communism grow less; but it does not follow that it was not still the custom, not only for married sons to remain with their parents, but for brethren after their parents were dead to dwell, as the Psalmist says (Ps. cxxxii.), in a sense that perhaps applies to goods as well as to good-will, together in unity.[1]

III.—The Romans under the Kings.

§ 16. In speaking of the Roman Law, its rules and principles, the first thing to be done is to say which Roman Law we mean. For there are at least three periods when the rules and principles of the law in the Roman State were widely dissimilar: the Early Period, before the Punic Wars; the Classical, from Cæsar to Caracalla; and the Christian, from Theodosius II. To mix up these periods seems to me something like mixing up the principles of the *Code Civil* with those of the laws of France under St. Louis, and calling the mixture

[1] An interesting article on *The System of Land Tenure in Ancient Palestine* is to be found in *The Church Quarterly Review*, July 1880, vol. x. pp. 404–435. The author gives us an excellent sketch of the ancient families and villages, the economical changes, abuses, and reformations among the Jews. Some information is to be got from Mr. John Fenton's *Early Hebrew Life*, London, 1880. But his work is spoilt by having to adapt the Hebrews to Mr. Spencer's sociology. My chief guide is F. E. Kuebel, *Die soziale und volkswirthschaftliche Gesetzgebung der Alten Testaments*, Wiesbaden, 1870.

French Law. At present let us look at the Roman Law on the family in the earliest known portion of the Early Period, viz. the regal times, and we shall see, in most of the points in which it differs from our own existing English Law, that it closely resembles the existing Law of the Chinese.[1]

The Romans, when we first get a clear view of them, were divided into clans (*gentes*), each clan being supposed to be the descendants of a common ancestor, and each member bearing a common surname (*nomen*). The ties of mutual help and control and common worship of the common ancestor much resembled the ties that bind together the Chinese clan, the only important difference being, I think, the absence among the Romans of the rule against members of the same clan intermarrying. Besides a personal name (*prænomen*) the Romans had also, unlike the Chinese, a second surname (*cognomen*) or family-name as opposed to clan-name.

§ 17. The position of Roman women in regard to property was almost exactly as it is in China. They were subject (*in potestate*) first to their father, who gave them as he judged best in marriage, and who,

[1] In the following description of the Roman family at two different times I have followed principally Wilhelm Arnold, *Cultur und Recht der Römer*, and can give besides a general reference to Sir Henry Maine, *Ancient Law*, and his succeeding works; Mommsen, *History of Rome*; Döllinger, *Heidenthum und Judenthum*; Paul Allard, *Les Esclaves Chrétiens* (Paris, 1876).

far from giving a dowry, received a payment from the bridegroom. This bride-money was one of the regular parts of marriage,[1] and another part was a religious ceremony. With the growth of wealth and refinement among the richer classes, the payment of bride-money, which among a simple peasantry is of the nature of a compensation to the bride's household for the loss of her services, was gradually discontinued. Hence the religious ceremony alone remained among the patricians, and their marriage was called *confarreatio*, from the sacrificial cake used at the ceremony. On the other hand, among the plebeians the religious ceremony was let drop, less, perhaps, out of indifference than out of dislike to the patrician priests; whereas they continued to pay the bride-money, or at any rate to keep up the forms of payment, from which forms their marriage was called *coemptio*.

The consequence of a lawful union was that the married woman became subject (*in manu*) to her husband. On his death she passed, in matters of property, under the control (*in tutela*) of her sons, or the male agnates of her husband. But though her position as a widow was not equal to that of the Chinese widow, and though we cannot say she had any power of veto on the partition of the property, still there

[1] The fact of bride-money being paid does not prevent the bridegroom also giving presents to the bride, or her father giving her a trousseau, and both may have been usual at Rome as well as the bride-money.

is a strong presumption that she invariably lived in the house and home that had been her husband's; nor was she likely to receive anything but honour from children who had been so long trained to obedience. Later on, when shares came to be reckoned and partitions made, she became entitled to a share in her husband's goods equal to that of each of his children.

§ 18. During her married life the Roman wife of the Regal Period had the advantage of being alone in her husband's affections; for neither was polygamy allowed nor the Chinese compromise of sub-wives, nor does it appear that their monogamy was accompanied by the melancholy supplement of slave girls, mistresses, and prostitutes. I do not say these evils were unknown, but I judge they were uncommon in that simple and austere society.

Divorce was not so much forbidden as disapproved, and in some cases punished. It is true, the husband, if his own father were dead, could sell his wife; nevertheless, the religious rite of *confarreatio* required another religious rite (*diffarreatio*) if it were to be dissolved; the man who put away his wife without very grave cause was liable to a fine imposed by the censor; and the story that the first divorce at Rome was not till the year 230 B.C. could hardly have been told, had divorce been a common practice in the previous centuries.

§ 19. The power of the father (*patria potestas*) was even greater than in China, and extended equally over grown-up children. I need not repeat the description, but only add that the Roman father had unlimited powers of chastising and slaying; and that, touching infanticide, the Roman religion only prohibited the exposure of male children and the first-born female, but not of the other female children. And although the father in his lifetime might set up a son apart with his own cattle (*peculium*), these gifts, and all subsequent earnings even of this separated son, might be resumed by the father at pleasure.

It was a rule that no Roman could be the slave of another Roman; but a father could sell his son as a slave to foreigners; and by a process known as *datio in mancipium*, he could bind his son to be the servant of a fellow-citizen for five years, and repeat this binding of his son twice again; so that the son for a period of fifteen years could be compelled to remain a servant in a stranger's house. This no doubt was the legal form adopted both for apprenticing boys in the town and country, and also for the service of the children of the poorer classes as domestics in the houses of the richer and middle classes.[1]

Moreover, after the death of the father the shadow of his power still remained in the worship, which,

[1] The son thus handed over was no slave, but protected against ill treatment, and able to marry and have children of his own.

now that he was numbered among the ancestors, was his due.

§ 20. But then again, just as in China, while the father seems, in the view of modern English Law, to have such arbitrary power in one aspect, he seems tied up in another. He could seize the earnings and take the life of a son of fifty years old, but he could not sell a field at his pleasure, or alter the order of inheritance. At least it seems highly probable, if not certain, that at one time none of the property known as *res mancipi* could be alienated by the paterfamilias (and of course if he could not, no other individual could). Such property comprised land and buildings, rights of way, draught cattle, and bondsmen; in short, a stocked farm or homestead (*fundus instructus* of later times). And the subsequent ceremonial required for its alienation, with the copper and the scales before the five lay witnesses, the man of religion and the balance-holder, is symbolic of an act of the assembled people; and thus indicates a time when a special law (like a private Act of Parliament) was requisite for every sale of the farm and of the means of cultivation. And I imagine that the Romans had two additional motives beyond those of the Chinese, making alienation of the homestead repugnant; first, distinct from the worship of ancestors (*Dii Manes*), the worship of domestic deities (*Lares* and *Penates*), who would be disturbed and displeased by a change;

secondly, the common practice of placing the family tomb, not on rocky hills or waste places like the Chinese, but near the dwelling-place. As long as these religious views were dominant, to buy or to sell a patrimony would be impious; and it seems probable that before the XII. Tables there were laws to check the transactions of the less scrupulous;[1] at any rate, it was held so foolish and wicked to squander the family property, that a man who attempted it was put under the charge (*curatela*) of his nearest agnate. Nor is the severe law of debt intelligible: the seizure of the person, and the pitiless unrestricted bondage, unless we suppose some very serious difficulties in the way of the debtor giving up his property, or making it in any manner a security for his debts.

§ 21. The father also could only indirectly affect the succession to his property—I should say rather to the family property—after his death. If he had no male children, he could only adopt an adult citizen (not a child), and even then only by a special law (in the *comitia curiata*), and after the priests had declared that no injury would result to the religious rites of the adopted man's family by his passing into another. The process was called *arrogatio*. If the father had male children, then in one sense they were without rights before him, in another sense they were co-owners of the property as well as he. He could

[1] See Claudio Jannet, *Les institutions sociales à Sparte*, 2nd ed, p. 77

not put an end either to his own power, (if he sold them, whenever they got free, they fell back instantly into his power,) or to their rights. But it is probable that, even during the Regal Period we are considering, he could make some public and irrevocable provisions about the details of the inheritance, the treatment of servants, the method of partition if there was to be one, and other matters like those dealt with in the Chinese will. Only this power of quasi-testation, if it existed, had to be exercised in the presence and with the approval of the fellow-citizens, either girt for battle (*testamentum in procinctu*) or summoned for business (*testamentum calatis comitiis*).

On the death of the father the heritage passed to those who by his death became their own masters: his sons, namely, and the sons of any deceased son; these last took between them the share of their deceased father, that is, they took, not *per capita*, but *per stirpes*. In no case was there any distinction of the eldest son, like that seen in China and among the Jews. Failing sons, the nearest kinsman through males took the inheritance; failing these kinsmen, the members of the clan (*gentiles*). It can be safely inferred also, that whoever took would have to see also to the support of the widow till her death, and of the unmarried daughters till their marriage. For we cannot suppose in a society where bride-money and not dowries prevailed, that daughters took equal shares with sons; this was a change that was not yet come.

§ 22. Quite in contradiction to the later Roman Law, this Law of the Regal Period seems to me to presuppose the habitual dwelling together of brethren in joint families, and to be unintelligible without it. How could the idea of the unity and indivisibility of the *hæreditas* arise if at each death the heritage had been habitually broken up into a number of separate and co-ordinate households? And the most natural explanation of the great use of wills among the Romans in later times, and their horror of dying intestate, is that wills had previously been used as the great means of preserving the families and properties of the Roman yeomen from dissipation.[1] Now I think it a reasonable conjecture, that in proportion as partitions increased and house-communities grew fewer, the power of testation grew to be a substitute for brotherly union as the means of keeping together the heritage. Previously, in the Regal Period we are considering, as we cannot admit anything but the prevalence of indivisible homesteads and enduring households, and as three out of the four methods of securing or seeking this stability were not to be seen, namely, the succession of one child to the bulk of the property, or the

[1] This seems to me a much more likely explanation than that given by Maine in ch. vii. of *Ancient Law*, namely, the dislike to the law of intestate succession. And to speak of emancipation as a favour to a favourite son, seems to mix up later times with earlier, when emancipation was either the mode of disinheriting a bad son or of settling a son apart from the joint family, so as to start a separate community for himself.

freedom of testation, or habitual sterility, it follows that the fourth method was in use, namely, the joint family or house-community. Of course there were occasional partitions, and the legal process of partitioning (*actio familiæ herciscundæ*) was very old; but the very passage from Gaius in which this antiquity is recorded seems to point to a time when to break up the joint family (*a communione discedere*) was not the rule but the exception (*Digest.* X. 2, fr. 1).

IV.—The Classical Roman Family.

§ 23. Now let us skip over 600 years, and examine these same Romans under the early empire. And I think there is sufficient resemblance in their family life from the time of Cicero to that of Ulpian to allow us to treat it as a whole, and give it the title of the Classical Roman Family. There were changes during that period, but not radical changes, altering the whole character of the family, like those between the Kings and Cicero, or again, like those between Ulpian and the Christian period that was to follow. As far as is needful I will mention the changes that occurred in the law or habits of the family during the Classical Period, and when no particular point of time is mentioned I mean the end of the reign of Tiberius.

Women were subject, almost as of old, to the power

of their father; but their state of tutelage no longer continued after his death, when they became in a great measure their own masters. The form of the old guardianship of women by their male relatives on the father's side continued indeed, till it was swept away almost entirely in the reign of Claudius (A.D. 45). But a serious control over women had ceased long before this, and Cicero had marked how in his time it was not the women who were subject to their guardians (*tutores*), but the guardians to the women.

§ 24. A still greater contrast to the past was seen in the relations of man and wife. The ancient marriage *in manu*, by which the wife had passed into the power of her husband, had finally disappeared; and now marriage was looked on, not as a solemn act of religion, and a blending together of two human lives, but as a civil contract, dissoluble at any moment the two parties might agree to dissolve it, and during its continuance only binding them in certain definite matters, leaving them in other matters their mutual independence. The wife was almost certain to bring property with her at marriage, or to acquire some in her married state; for it was the custom for the father of the bride to give, not a mere trousseau, but a substantial dowry (*dos*), and indeed a law of Augustus compelled opulent parents to provide dowries for their marriageable daughters; and women besides had rights of succession to their father's or brother's

property equal to that of men. What the bride brought in the shape of dowry belonged in name to her husband. Formerly it belonged to him in reality; but now he could not alienate it if it were an immovable without the wife's consent, nor mortgage it even with her consent. If she died before him, her father, unless there had been an agreement to the contrary, could claim back all the dowry he had given her, less a fifth part for each of her children. If there was a divorce, the husband had to restore the dowry to the wife, with certain deductions if there was fault on her side, or, if he was to blame, without the usual delays and instalments. If she outlived him, and he had failed to make for her a proper provision by will, she could claim her dowry back for herself (by the *edictum de alterutro*). But the more special feature of the time was not the law and practice of dowry, but the habitual possession by married women of other property distinct from the dowry and over which the husband had no sort of authority. Such property requires a special technical term to express it, and for want of a better I will use the term *separate goods*. At Rome they were called *parapherna;* and so jealous was the law in preserving the separate rights of husband and wife, that a donation from one to the other was unlawful: the giving had all to be done before marriage. And notice that a bride, when her father was dead, and she was of an age to manage her own property, would herself settle a portion of

this property as dowry (one form of *dos adventitia*), and this alone could be touched by her future husband.

§ 25. This separation between man and wife in matters of property was no mere matter of legal precision, but corresponded to the realities of married life ; for marriage in many cases was a mere temporary cohabitation and anything but a partnership for life. (See Döllinger, *Heidenthum* and *Judenthum*, pp. 700–702). The smallest occasions were ground enough during the later days of the Republic to justify divorce. Thus Pompey divorced Antistia that he might marry Sulla's stepdaughter Æmilia, who on her part had to be divorced from her husband Glabrio, though she was with child ; and when she died Pompey married Mucia, whom he afterwards divorced, that he might marry Cæsar's daughter Julia. Women too, having now their property separate, followed the example of the men and put away their husbands. Nor was the effort of Augustus to check divorce, principally by imposing payments or forfeitures on the party whose guilt was the cause of the separation, of much avail. For Seneca, half a century later, is a witness to the frequency of divorces in his own time and the absence of public opinion against them. Nay, so rooted and grounded was this habit that it continued among the Pagans after Christianity had triumphed. St. Jerome (*ad Ageruch*, I. 908, apud Roscher, *Nationalökonomie*,

§ 250, nt. 3) saw a woman buried by her twenty-third husband, who himself had been married twenty-one times; and the legislation of Justinian left the licence of divorce in principle untouched. Nor was it any use for the classical jurists to define marriage in beautiful language as *divini et humani juris communicatio, consortium omnis vitæ, individua vitæ consuetudo;* for their definitions were in flat contradiction to the facts and the law.

And I think we can say that the law afore-mentioned on the property of married women was one among several other causes of a great disinclination for marriage, at least among the richer classes, towards the end of the Republic. There was no longer the great motive in a religious desire for legitimate offspring who, by mourning and worship, could give happiness and honour to the spirits of their parents. This belief was enfeebled or dissolved; while celibacy, or at least childlessness, besides the usual attractions of greater freedom and less care, had the special attraction of being a source of honour and respect among a venal crowd of "captators" or legacy-hunters. Above all, the vices and extravagance of women and the fearful prevalence among men of immorality that was so rare, and of unnatural vices that were unknown in early Rome, rendered marriage in the eyes of many a burdensome superfluity. I can dispense with the repulsive evidence of corruption; for others (as Döllinger, Mommsen, and Allard) have given it.

I will only mark that the abundance of slaves and the unbridled character of the slavery gave the upper and middle classes the incitation and the opportunity to indulge with the least possible cost and inconvenience in every kind of licentiousness.

§ 26. There can be enduring low levels and enduring high levels in morality and happiness; but the extremity of corruption and woe must soon be followed by a reaction. Not that evils, if bad enough, work their own cure; only there is a low level, below which there is no long remaining. The lower classes of England could not remain long in that extremity of misery to which they had sunk in the fifth decade of this century; nor could the upper and middle classes at Rome remain in that extremity of depravity to which they had sunk at the end of the Republic. We may distinguish two notable efforts to restore family life to something of its former integrity. The first was by Augustus, who, beginning with sumptuary and penal laws to check the extravagance and vice of women, at last made a bold stroke, and by the two Acts known together as *leges Julia et Papia*, inflicted penalties on the single and childless and bestowed rewards on the married and parents. The main provisions were, first, that no unmarried person or who persisted in remaining unmarried could enter on the inheritance or receive the legacies of a stranger, that is, of any one beyond the sixth degree of kinship

(second cousin). Secondly, that no man who had not at least one legitimate child living could receive as heir or legatee of a stranger more than half what he could else have received. Thirdly, that the property thus forfeited should fall to any co-heirs or co-legatees who had children, and failing these, to the public treasury. Fourthly, that a freeborn woman who had thrice born children should have various privileges, as exemption from guardianship, and the right of succession to part of the goods of her freedmen. And there were other less important provisions, with the same aim of restoring family life. That these laws wholly failed I do not believe; that they were felt, is shown by the dispensations from them granted by the emperors; that they were held to do some good is seen by their long continuance, in spite of efforts to repeal them. But mitigation of extreme evils is not a moral transformation; Seneca and Pliny the younger, Juvenal and Tacitus, show much the same picture as Cicero and Horace; and the captators still successfully pursued their business and their flattery, so that Seneca could say: *In civitate nostra plus gratiæ orbitas confert quam eripit* (*Consol. ad Marc.* c. 19), that is, "You gain more at Rome by being childless than you lose."

§ 27. The other effort at reform was a sort of half-religious, half-philosophical revival based on Stoic philosophy, and greatly promoted by the extinction,

through vice or the executioner, of many of the old nobility, and by their places being taken by a more frugal and sober-minded nobility coming from the provinces. And undoubtedly there was some change for the better; there is a genuine dislike of corruption and an admiration of domestic virtue in the better writers of the age of Tacitus; if there was more astrology and magic, there was also more religion; and there are more traces of healthy family life and domestic affection. But this supreme effort at moral reform either had but fleeting influence or did but raise morality to the lowest possible of lasting levels; and in the age of Tacitus, as in the age of Cicero, we see, not as exceptional abuses, but as a regular part of the Romano-Hellenic civilisation and common practices of private life, the five abominations of transitory marriages, wilful sterility, vices against nature, the stage everywhere, and every stage a sink of prostitution, and lastly, the world of slaves without any marriage recognised at law.[1]

[1] It is necessary to give a word of warning against the false impression likely to be caused by such able writers as Friedländer (*Sittengeschichte Roms*) and Gaston Bossier (*La religion romaine*). No doubt it is pleasanter to read of the material beauty, the contrivances of art, the political structure of that splendid empire, to be given instances of wisdom and virtue, of religion and reformation, than to wade through filth. No doubt also there has been much ignorant disdain of the industrial arts and political constitution under the Cæsars. But the diseased state of family life and the all-pervading moral corruption are beyond serious dispute. And if the provincials had a stock of virtue to start with, this grew less the more they were assimilated to the urban Latins or Greeks. Each centre of Roman administration, with its baths and theatre, was a school of new vice and a centre of corruption.

§ 28. In the Classical Roman Family the power of the father over his children remained to a great extent the same as in the time of the kings. His power of life and death was indeed restricted under the Antonines; but infanticide and exposure continued, and speculators collected the foundlings and reared them for slavery or prostitution. All that a son earned or received belonged wholly to his father; and though the father might allow him to have property as though it were his own, this was an indulgence that he could recall at pleasure. There was indeed a serious exception that began under Augustus, for a son had complete control over what he received when setting out upon military service, and over what he acquired as a soldier (*castrense peculium*); he could even dispose of it by will. Moreover, a father in two ways might render his sons independent. One was by an irrevocable act of emancipation; the other by taking a concubine instead of a wife. The law under Augustus recognised such unions, and though the position of the woman was not honourable, she had a position, and there was no wife allowed or fellow concubine beside her. The children had a recognised father, from whom they could claim support. But they had not the rights of succession that fully lawful children could claim; and they were not in the power of the father in the manner of those other children.

But though the head of the household, whether by

law or custom, of necessity or by his own doing, had habitually less power over his children than the father of Regal Rome or Modern China, he had greater power over property, and could extend that power beyond the grave. The reckless prodigal was still placed under guardianship; but the remaining prohibitions of alienating property had fallen away, and it was not till the time of Alexander Severus that immoderate donations *inter vivos* by a father, or immoderate dowries, could be rescinded and recovered by his children after his death (by the *querela inofficiosæ donationis* or *inofficiosi dotis*), and thus his power while living abridged (F. Walter, *Gesch. der röm. Rechts*, n. 618).

§ 29. Further, he had much greater powers of adoption than in that former time; and if he had no son could adopt even a stranger who would become to him wholly as a son, and likewise a daughter if he had no daughter; and though there were certain restrictions, as of age, he still neither required a special law or the consent of his clan as of old, nor was bound like the Chinese father to choose from a narrow list of relatives. Above all, he now had such powers of making a will as enabled him substantially to alter the order of succession. His powers, indeed, were not wholly arbitrary, as in England, Ireland, and some American States; for besides being bound by

certain formalities,[1] the testator was obliged to leave to his children, to his parents, and to his brothers, at least one-fourth of what they would have got had he died intestate.[2] But he was master of the remaining three-fourths; and the common use and perhaps commoner abuse of testaments, and the great complication of their provisions, can be gathered both from the literature which gives so conspicuous a place to the legacy hunter, and from the statute book which shows so many laws dealing with trusts and legacies. It was the custom to leave something to every friend in high rank. Augustus, during the last twenty years of his reign, received over ten million pounds sterling in legacies from his "friends;" and the chief penalty he employed for celibacy and childlessness was precisely to cut off these testamentary gifts from friends —a proof of their frequency.

§ 30. In the law of inheritance in Classical Rome the most striking contrast to modern China and Regal Rome was that women were almost on a level with

[1] For example, having to say expressly that he disinherited certain persons, and having so to arrange his liberalities that the person he appointed "heir" (or persons as co-heirs) should get a fourth at least of the property, and that those whom he favoured by trusts and legacies should not get more than three-fourths.

[2] That is, they could bring an action (*querela inofficiosi testamenti*) if he did not leave them this amount. Other relatives could also try to have the will set aside on this ground of undutifulness, but with little hope of success during the Classical Period.

men. If you died intestate, your property went in equal shares to your children, whether male or female, adopted or your own, and to the children of any deceased son, as their father's representatives; nor was a son excluded by his emancipation nor a daughter by her marriage. Such sons, indeed, or such daughters had to throw into the common property, that was now to be distributed, such goods of theirs as would have been their father's had they not been emancipated (*collatio bonorum*), and whatever they had received, if daughters, as dowry. Only those children were excluded who had been given in adoption and become entitled to succeed as the sons or daughters of others. The next class to succeed were relations through males (agnates); only here women were not put on a level with men, as, of all the female agnates, only sisters could claim. If there were no agnates, relations through females (cognates) succeeded, such as the children of your daughter or the brothers of your mother.

§ 31. Although women, therefore, were not assimilated to men in the matter of property, the law was such that a great deal of property might be expected to be in their hands. And they could also profit by the freedom of testation. It is true that long previously an attempt had been made to check the accumulation of property in women's hands, namely, by the *Lex Voconia*, B.C. 168, which forbade any one rated at 100,000 asses to make a woman his heir. But in the

Classical Period, by the use of trusts and legacies, you could, if the worst came to the worst, set aside a quarter of your goods for the "heir" and a quarter for those entitled to legitims, and give the remaining half to women. There had also been an attempt to stop women making wills. But the law was evaded by a legal contrivance (*coemptio fiduciaria testamenti faciendi causa*), and even this contrivance was rendered unnecessary by a law of Hadrian.

In the matter of joint families, although the power of the father over his children prevented that rapid dissolution so common in modern France or North America, and made it easy and natural for the family community to last till his death, there were no longer the old reason and opportunity for his children keeping together when he was dead. The worship and recollection of ancestors was not indeed gone, but was enfeebled, and its costly and numerous observances were now felt an intolerable burden and annoyance;[1] the law was hostile to ownership in common, and provided special means of partition and division; above all, the right of women to receive an equal portion of the inheritance and to demand that portion separate, rendered impossible any long continuance of the family community.

§ 32. I do not profess to give the causes of the

[1] See Maine, *Ancient Law*, 3rd ed., pp. 192, 193, iv. pp. 64, 65; *Early Law and Custom*, pp. 64, 65.

great difference between the time of the kings and the time of the emperors in Roman family life; nor to account for the fact that the Chinese still remain so like the Romans of the first period, and have not changed as these did. I will only say that I am not satisfied with any such free-and-easy mode of explanation, as that the one people was progressive, the other stationary, and therefore the one passed out of the archaic family, the other remained in it. How then are we to account for the elaborate civilisation of the Chinese, so that they serve as a stock example of an artificial and over-cultivated people? (see W. Roscher, *Nationalökonomie, passim*). If their family life remained "archaic" because they were unprogressive, how did they change from the illiteracy, the rudeness, the violence, and the spirit of warfare that are supposed to be archaic, to become of all peoples the greatest devotees of literature, the most polite and ceremonious, the most orderly, and the least inclined to honour or favour the profession of arms? Nor do I think that we can account for the change from the Regal to the Classical Roman family, because we know in great part the steps by which that change was accomplished. To know how it happened is not to know why it happened. It is likely enough that the rapid growth of commerce at Rome did much to upset the former laws and customs that had been adapted to a community of simple husbandmen; but this is saying but little: there is plenty of trading in

China, and yet Chinese family law has not been upset; and the interesting point is not why the Roman family in general underwent a change, but why it underwent the particular changes it did. Of course we may all give our guesses; only let us make quite clear to our hearers what is guesswork and what is not.

V.—The Homeric Greeks.

§ 33. From the reign of Caracalla, when all free-born inhabitants of the Empire were made Roman citizens and followed the Roman Law, the Greeks were assimilated to the Latins in their family law, and, moreover, became once more at law all alike among themselves, as they had not been for some thousand years. Let us, before saying more of the later Greeks, go back those thousand years, and consider that earlier family life to which we can give the title of Homeric.[1]

The times were simple, that is, there was no great

[1] I follow constantly the small but most excellent treatise of Claudio Jannet, *Les institutions sociales et le droit civil à Sparte*, 2nd ed., Paris, 1880; also W. E. Gladstone, *Studies on Homer and the Homeric Age*, Oxford, 1858, and *Juventus Mundi*, 1869; also the volumes on *Privatalterthümer* and *Rechtsalterthümer*, in the new edition (1882–4) of Hermann's *Lehrbuch der Griechischen Antiquitäten*; also for Athens, Boeckh, *Die Staatshaushaltung der Athener*, 2nd ed. 1857; and for later times, G. F. Hertzberg, *Geschichte Griechenlands unter der Herrschaft der Römer*, 1866–75.

accumulation of wealth in single hands, nor any strongly marked distinctions of class, nor any very complicated relations of ownership, of partnership, or of service. Manual labour in the field, or even in the workshop, was not held unbecoming for the noblest born men; while women of the highest rank habitually sat spinning or weaving with their servants. All garments were made at home by the women, who also did the washing, ground the corn, fetched the water, and did in short all the household work except the preparation of firewood and of animal food, functions reserved by custom for men. In farm-work all the part of the women was to work at the vintage, and perhaps tend sometimes the sheep. Thus all the members of the family, whether in high or humble station, as soon as they had ceased to be children, joined in the labours of the house or the farm, and contributed to the common revenue. Under such circumstances, it was a matter of course, when a maiden left her family at her marriage, for some compensation to be given to her father or brethren for the loss sustained by her family, in other words, for bride-money to be paid. Such payments were called ἔεδνα. And let me here protest against speaking of the husband, where bride-money is given, as "buying" his wife, and against using the term bride-price instead of bride-money. It would be almost as misleading to say, where dowries are common, that the father "buys" a husband for his daughter. There is some

likeness in both cases to a sale; but what is the use of science if it does not make clear and distinct what in common discourse is confused and obscure.

§ 34. The fact of bride-money being paid by the bridegroom is not inconsistent with the bride being provided with a trousseau by her father. This seems to have been customary in Homeric Greece; and if the wife was put away without due cause, the husband, besides losing the bride-money, probably had to send her trousseau back with her. On the other hand, if the wife was guilty of adultery, the bride-money could be demanded back by the husband. The cases where the father gave a dowry to his daughter, instead of receiving an indemnity, were wholly exceptional, perhaps confined to the royal or the wealthiest families, and to where the son-in-law was taken by a kind of informal adoption into the family of his father-in-law. A widow, if young, would, I think, return to her father's house and be married again; but otherwise would remain among her children, or with her husband's relatives, protected, if not by law, at least by fear of offending her relations, by public opinion, and by religion, from ill-usage and neglect.[1]

How far a maiden could exercise her choice of a husband seems doubtful; but although the parental promise or betrothal (ἐγγύησις) was part of the ceremony, the consent of the parent necessary, the willing-

[1] All three grounds are to be found in *Odys.* ii. 130–137.

ness of the maiden, perhaps in most cases, assumed rather than asked,—still the Homeric poems show a considerable freedom of choice left to the girl among rival suitors; nor could it well have been otherwise where the young of both sexes met so freely, and early attachments were so likely to be formed. The choice, however, as far as it went, was not whether she should have a husband, but only who he was to be: neither a maiden nor marriageable widow could remain unmarried. For marriage was a religious duty, and a matter of course, lest the family should die out, the sacred flame on the hearth be extinguished, and the dead father have no sons to bear his name and honour his tomb.

§ 35. Divorce seems almost incompatible with the plot both of the Iliad and the Odyssey; and the many special names for relations by marriage show the importance and permanency of the tie that marriage created. Still we can hardly doubt that a man had the right to put away his wife if she were barren or unfaithful. Perhaps it was even a duty to a man's ancestors to put away a barren wife. But this I think belongs to a later period, when the worship of ancestors and the desire for posterity had grown much more definite and strong than appears in the Homeric poems. There was neither polygamy, nor the Chinese institution of sub-wives; and though it was not uncommon for a chief to take a slave or a captive as a con-

cubine (παλλακὶς), this union was not reputable, and the children were bastards (νόθοι), inferior in rank, and with scanty rights of succession, compared with the issue of the lawful wife. Besides this one laxity there was a germ of deep corruption in the evil mythology; but this was as yet little more than a germ; and the Homeric poems give us a picture of morals as different almost as could be from later times: no prostitution, no unnatural vices, the body decently clad, decent women taking their part in society, the wife the companion of the husband, women the intellectual equals of men, and commonly the prop of virtue, and withal gentle and affectionate. No doubt in one sense we can say, if we are fond of words, that the Homeric women laboured under harsh proprietary disabilities, were minors all their lives, with nothing of their own, and under perpetual guardianship. But the daughter or wife might answer that in another sense all the goods of her father or her husband were hers, and that each matron was a perpetual guardian of the house. And this use of words would be less misleading than that other.

§ 36. Some difference is to be seen between Homeric Greece and Regal Rome in the power of the father, though the great contrast was not till later. Probably the father might expose his children at their birth, but whether he had, as at Rome, the right of life and death over them, when they had passed

infancy, is dubious; and when they had grown up they probably had some separate property, more as a matter of course than the Latin *peculium*, and had more voice in the management of the family property than at Rome. In both societies, indeed, the father was not the absolute owner, but only the guardian and administrator of the family property; he could not alienate it during his life or at his death; nor could it be charged with rents or seized for debt. Such transfers would have been not only illegal, but impious; an outrage to the gods of the house, and to the spirits of the ancestors, whose shrine was always in the building, and whose tombs were often on the land. But the Greek father, unlike the Roman, was liable, even at this time, if his hands grew weak, to have to give up his authority to his sons.[1] Only let us not think this means that the Greek sons were less dutiful than the Roman. We see reverence for age and affection for parents; and this was translated into the written law of later times, which punished children who neglected their parents in old age, or sickness, or litigation, or trials. Moreover, among all the Greek peoples the father had some right of solemn casting-forth and malediction of an undutiful child (*αποκήρυξις*, *απορρήσις*). Testaments, as I have already indicated, were unknown, though we need not suppose that a

[1] In later Attic law an adult son had the right to bring an action of dotage (*παρανοία*) against his father in order to have the administration of the family property taken from him; in which case the father would fall under the guardianship of his sons.

dying father never expressed any wishes about the distribution of movables, and that these wishes were not respected, or his deathbed donations not ratified by his children. But the family property as a whole belonged to the family, and was not the father's to give or to bequeath. Adoption was not unknown, but was kept within narrow bounds; for we may infer from subsequent laws that only a man with no sons could adopt, and then only with the consent of the nearest agnates, and probably only among these could he make his choice.

A tie, something of the nature of that created by adoption, was that of guestship (ξενία), which bound together not only the original host and guest, but their children and grandchildren, giving them mutual claims to protection, hospitality, and gifts.

§ 37. On the death of the father all his legitimate sons took equal shares of the inheritance; and the sons and their male descendants excluded the daughters, though of course any unmarried daughters would live in the paternal house till their marriage. The eldest son had probably a certain authority over the rest in the management of the common property, in the manner of making partitions, and especially in conducting the religious rites of the family; moreover, any political headship went to the eldest. Failing sons or their male descendants, daughters succeeded; and this was a great difference to the law of Rome

and China. But not so great as it seems. For such daughters were not allowed to marry outside the family; and thus they were not the means of introducing a stranger to the sacred hearth, but the means of preserving it in the family. One of the results of this plan of preserving the family was that marriages between near relatives, as of nephews with aunts, was frequent, and became a characteristic of Greek society quite independent of its original aim; nor was rooted out till Christian manners prevailed.

Homeric family law seems, like the Regal Roman, to presuppose the prevalence of joint families. All the members (called ὁμόκαπνοι or ὁμοσίπνοι) were under the rule and direction of the eldest brother (supposing him capable) of the eldest line, who bore the appropriate title of hearth-preserver (ἑστιοπάμων). Such communities, as Jannet marks (*Sparte*, p. 88), "were probably the pivot of family organisation, and partition among children only exceptional. But in time it was just the reverse, and then the principle of compulsory partition was quite out of harmony with a number of other institutions, that aimed at keeping the inheritance in the family. Hence the incoherence noticed by Cicero in Greek law compared with the Roman, that was founded on the testamentary appointment of an heir." But in the old times there was no incoherence; and besides being bound up with those who shared with you the same hearth and the same food, you were a member of a clan (γένος) comprising all

who, by descent, adoption, or service, were bound together as the worshippers of a common divinized ancestor.[1]

§ 38. The union between kinsmen and between clansmen was further strengthened by much (though not all) of the administration of justice being left in their hands; to defend, to avenge, even to punish kinsmen was a right and a duty; and the later law of Greece is full of the traces of this early institution. Nor let us, on the ground of our piety or culture, call this institution by the bad names of anarchy and bloodthirstiness. It can be abused like all other institutions, the criminal law of civilised states among them; but is not to be judged by its abuse. The ferocity of the Highland clans, with kindred put first and God second, as seen in the picture so wonderfully drawn in *Rob Roy*, is not to be transferred to Homeric Greece. For there the avenging of kindred's blood was not against, but a part of their religion, a holy duty, and one that the gods would not suffer

[1] We see in Homer traces, but only traces, of the subsequent aggregation of clans into larger groups called φράτραι, and of these into still larger groups called φυλαί. The matter is obscure, and I am inclined to think these groups of clans were more local and political, and less bound up with religion and relationship. How to translate the words is a problem. If we use *tribe* to mean the same as *clan*, then certainly the common rendering of φυλή as tribe is incorrect. But I see no reason for not keeping the words clan and tribe quite distinct; and then perhaps the best rendering of the three Greek terms would be clan, tithing, tribe, corresponding to the Latin *gens*, *curia*, *tribus*.

to be neglected. Nor was anarchy the result. The homicide fled as much before his own sense of guilt, and before public opinion, as before the wrath of the avenging kindred; if these were feeble and few, he still fled; and we do not see a trace of a homicide who was of a powerful family using their strength to defend himself from flight.[1]

Again, let us not make another mistake about these judicial and police functions of the family in certain times. They are excellent in their way, but in their nature are transitory; because man is made for political as well as for domestic society, and these functions belong to political rulers. But because the State rightly assumes, as it grows into being, some of the previous functions of the family, let us not argue as though it might rightly assume all. And because some of the powers and offices of the family are transitory, let us not jump to the conclusion that everything is in a state of flux, and that the family itself is transitory, or may be, for all we know. For neither the Historical School of Jurisprudence and Economics, nor any school in any science, can grant us a dispensation from logic.

[1] I have borrowed much of the foregoing from the lucid explanations of K. O. Mueller in his classical edition of Æschylus' *Eumenides*, pp. 126–130.

VI.—Classical Athens.

§ 39. The stream of Greek history, economical as well as political, did not continue, like the Roman, to flow in one channel, but divided into many streams, some unlike others; and it was not till the third century after Christ that they were all once more united. Nor was the difference among the different Greek peoples, such as Athenians, Spartans, Thessalians, Arcadians, merely this, that some were quicker, others slower, to begin the series of changes that transformed the Homeric Greeks into the Greeks of the Roman Empire. It is no such simple matter of chronology; for there was no one common course of evolution, but a different series of changes for many of the different States.

Domestic life at Athens in the century from Pericles to Demosthenes can be traced with some clearness, and in its leading features appears settled, not changing. There had indeed been a metamorphosis since Homeric times, but that was now over; and all the changes that were to come in the pagan Greek family, even the introduction of the Roman law, were as nothing compared with that great change that had gone before, and of which the stages, unlike those of the Roman family, are mostly unknown.

§ 40. The least change, though even here it was

very great, was in matters of property. Instead of the parents receiving *Eedna* at the marriage of their daughter, it was now the rule for them to give with her a dowry (*φερνὴ* or *προῖξ*). This dowry was a great security against arbitrary divorce; for then the husband would have to restore it. Dowries made up much of the movable property at Athens; even among the comparatively poor a sum equivalent to £100 with us was not unusual, and among the richer £1000. Thus the law of inheritance, which remained much as it had been, excluding daughters if there were any sons, was of much less use than formerly to keep the property in the family, since so much could be drained away at the marriage of each daughter. In one case, indeed, the payment of a dowry could be avoided; for a half-brother had the right to marry his father's daughter by another wife, and thus save what would else have gone in the shape of dowry from the family property.[1]

The worship of ancestors, and the dwelling together of brethren in joint families, the two pillars of the family of old, were much decayed; though the worship was still usual, even a legal obligation for heirs; and though communities of brothers were not uncommon.[2]

[1] See Maine, *Early Law and Custom*, p. 105, who notices that the law did not allow the half-brother to marry a uterine sister, and that there was no reason why it should. For such sister, not being his father's child, would have no claim on the family for dower or for anything.

[2] See E. Caillemer, *Études sur les antiquités juridiques d'Athènes: Succession légitime.* Paris, 1879, pp. 34–36.

The absence of clan names or even of surnames was both a sign and a cause of the decay of union among kindred. The father's personal name, indeed, was borne in common by all his sons; but this only linked two generations, no more, together. And an Athenian's third name had nothing to do with his family, but was that of his political district, a sign of how greatly public life had waxed and private life had waned.

§ 41. The old rule that daughters, who, being without brothers, inherited property, were to marry relatives, lest the property pass away from the family, had grown at Athens into a branch of the written law. An heiress was called *επίκληρος*, and her nearest collateral agnate, who was called the *αγχιστεὺς*, had the right to marry her. They could be as nearly related as uncle and niece. Their son, when of age, was put in possession of the property of his mother; he became her guardian; and the property was considered to have descended to him directly from his maternal grandfather, whose name he bore, just as though he had been his son. If there was a second son born to this marriage he succeeded his own father (the *agchisteus*) in the ordinary way. Any further sons were assigned, I believe, some of them their father's family, some to their maternal grandfather's. If there were several sisters co-heiresses, the right of marrying them extended to as many relatives as there were sisters. But what if any of the parties were

already married? The male relative could divorce his own wife in order to marry the heiress, and he often did so (Maine, *l. c.* p. 104); or he could keep his own wife and pass on the heiress to the next of kin. If she herself was married, then all depended on whether her father before his death had taken the precaution to adopt her husband. He had the right to do this, and then after his death the relatives could neither dissolve the marriage nor take the property.[1] Failing such adoption they could do both; and there is a case recorded, which perhaps represents a common practice, where the relatives of an heiress forced her husband to renounce all claim to her inheritance by the threat of dissolving his marriage. But if the girl was poor, that is, if she was assessed in the fourth and poorest class of Athenians, the tables were turned on the relatives, and the *agchisteus* was compelled either to marry her, or to give her in marriage with a dowry of 500 drachmas (equivalent to some £50 with us). This duty indeed, if there were several poor sisters, was satisfied by endowing one, whereas the right of marrying rich sisters could be claimed, as we have seen, by a corresponding number of relatives. And when the sum of 500 drachmas was first fixed, it could purchase probably four or five times more goods than in the time of Demosthenes.[2]

[1] This right of adoption was the so-called "liberty of testation" granted by Solon.

[2] I have followed in the main Caillemer, *l. c.* pp. 36–60. The Attic law with repulsive logic made cohabitation of the heiress and *agchisteus*

§ 42. The former restrictions to alienation were gone, and a man during his lifetime could dispose of his property almost at his pleasure, though to sell the property containing the family tomb was still held very discreditable. Moreover, he had certain rights of testation. For long he had had the right of adopting his son-in-law if he lacked sons; but besides this he now had a right, not indeed to appoint any one an heir in place of his sons, but to make legacies. In several other Greek States this right was little checked, but at Athens there was some check (perhaps like the *portio legitima* or the *quarta falcidia* of Roman Law) the nature of which is unfortunately not known. One great point that distinguishes Athenian and the other

compulsory. Moreover, the latter, according to Plutarch, if impotent (he was likely enough to be an aged uncle), might call on his next of kin to raise up for him children from the heiress. Caillemer thinks there was no such law as this last at Athens; and that Plutarch is only a witness of a vague recollection among the Greeks of this ancient Aryan custom. But I see no evidence for his supposition. He refers to the laws of Manu, where truly enough there is an analogous institution carefully regulated by law. Nor is it impossible that a knowledge of these Hindu provisions may have led Plutarch or his informers into the belief that similar provisions were in force at one time at Athens. But the laws of Manu do not tell us what were common Aryan customs. We might as well try and deduce the common Teutonic customs from the laws of modern Ireland. It would have been better (though not even then conclusive) if Caillemer had given us a reference to a similar custom in the Vedic or Homeric poems. Only there was none to give. In truth, the constant hunting after "survivals" of "original" institutions seems to me a great hindrance to finding these institutions. Where there is an intense desire for offspring and simultaneously a religion that is tainted with superstition and immodesty, many strange and repulsive customs may be locally generated, that are anything but common and primitive.

Greek wills from those of Rome, is that they were (as far as we can judge) used to break up the family property and not to preserve it from dissolution.[1] The law on the treatment of "heiresses" I have already explained. And the old incapacity of women to deal with property had now crystallised into the institution of perpetual tutelage. Every woman had to have a guardian (κύριος) all her life; while yet unmarried her father or next of kin; while married, her husband; while a widow, once more her next of kin, even her own son when he came of age. On her own authority she could make no legal contract for aught that exceeded the value of a bushel of barley. But this was not un-Homeric, but only carrying out the ancient principle that the place for women's industry and rule was not the market-place but the home. And contracts were matters for the market-place.

§ 43. The theory was that the husband and his men-servants were to provide the house and the materials for food and clothing; while the wife and her maid-servants were to see to the preservation of the goods within the house, keeping all clean and tidy, cooking and serving the food, spinning, weaving, and making the clothes. Thus in the *Œconomicus* of Xenophon

[1] Sir H. Maine, *Ancient Law*, pp. 196, 197 (3rd ed.) seems hardly to have appreciated the importance of wills in classical Greece, especially outside Attica; and to have overlooked Sparta, and the notable passage in Plato's *Laws*, Book xi., c. vi., p. 922, B–E.

we find a picture of such a household, an excellent Greek matron, and complete community of goods between husband and wife. The picture indeed shows a view of women much lower than that of Homer,[1] and moreover portrays wishes rather than facts. Still we ought to take it as a true picture of at least a few homes in Attica. Marriage too was still held a religious as well as a civil act and duty; and both would be violated by a plurality of wives.

Another resemblance to Homeric times was the honour still paid to parents; and this, as I have already remarked (*supra*, § 36), was enforced by the law against undutiful children. Nor perhaps must we take the undutiful conduct of the son in the *Vespæ* of Aristophanes to mean more than an occasional abuse of the ancient duty of sons, when their fathers were weak and aged, to act as their guardians. But as a natural corollary of the greater power of the father during his lifetime or at his death to dispose of property, his sons could acquire and hold property apart from him; and precisely the son in that play

[1] It is needful to remember this and not be led astray by Mr. Ruskin's view that "this book contains the ideal of domestic life" (p. xli. of preface to translation of the *Œconomicus*, *Bibliotheca Pastorum*, vol. i. 1876). The husband in Xenophon's book is no doubt an excellent teacher, the wife an excellent pupil; the doctrine taught is sound; the relations of the man and his wife in matters of property and housekeeping are good. But is our ideal to be that all the learning and wisdom are to be on the side of the bridegroom, and that the wife is to be altogether the pupil, the husband altogether the teacher?

of Aristophanes is a man who had made a fortune, while his father remained poor.

§ 44. There were some likenesses therefore to the Homeric family as well as differences, and all was not evil. But most was evil; and in this is the greatest of the contrasts to the old heroic age. The seclusion of women (that is, of decent women), and the absence of choice in the matter of marriage on the part of the woman, were matters by comparison unimportant, and compatible, as we have seen in China, with a solid constitution of the family. But they have divorce as their corollary, and divorce was as common at Athens as in China. Not merely could marriage be dissolved by mutual consent; but the husband, it seems probable, had arbitrary or almost arbitrary powers of putting away his wife, and had some powers of giving her in marriage to another or directing her marriage after his death. And besides this un-Homeric seclusion and divorce, there was no longer the old honour given to the wife as the partner and companion of her husband. The character of women was despised, their education neglected, the husband's life mainly spent away from home, his interests in the assembly and the theatre, the law-courts or gymnasia; his house only a shelter for the evening and the night, his wife useful to him for keeping his house and bearing him legitimate children, but nothing more, no lifelong companion and partner in all his joys and all his sorrows.

§ 45. There were indeed some women who were well trained, and who were the social and intellectual companions of men: but they were the bad women. For all shame and decency had gone; the women of influence who made their mark in history were prostitutes; the great Athenian orator alludes as an obvious matter to the respective uses of the prostitute, the concubine, and the wife. Moreover, the place was another Sodom, and unnatural vice was regarded with the same shamelessness as prostitution. And slavery made all licentiousness easy, and every home infected.[1] Nor was there the usual set-off to the vice of the towns and of the rich in the sober domestic life of a peasantry. For, at least after the Peloponnesian war, the bulk of the rural population of Attica was made up of slaves, whose marriages were dependent on the good will of their masters; and even such peasantry as remained was liable to corruption from the manifold obscenities of the pagan worship and mythology.

This was fair Athens, the intellectual centre of all the Aryan races of the West, to whom her literature and her philosophy became a common and a cherished possession; and also a foul source, whence the waters of corruption covered Europe from one end to another.

[1] In Grote's *History of Greece* (4th ed. 1872), by an almost incredible omission, two of the leading features of Athenian history, the all-pervading immorality, and the growth of slavery *pari passu* with the growth of (what the Greeks called) democracy, are in general ignored; while in certain shameful passages, meeting perforce with the foulness of some of his heroes, the English author appears as an apologist for the abominations of the Greeks.

VII.—Sparta and the later Greek Family.

§ 46. In the middle of the fourth century before Christ, the Spartan Republic shows many contrasts to contemporary Athens, but is separated by an equal gulf from Homeric Greece. The state of the family is all that at present concerns us, and in this the Lacedæmonians had one great advantage over the Athenians. For the bulk of their people were not slaves, but rural serfs; and probably shared in some measure the rustic virtues and healthy domestic life which many years later were still to be found among the inland inhabitants of the Peloponnesos. But the Spartans proper, the ruling caste of fully qualified citizens, appear in their domestic life, if possible, still more repulsive than the licentious slave-owners of Athens. Both were lost to the sense of personal modesty, and both were given over to unnatural vice. But the Spartans, unlike the Athenians, recognised adultery as a legal institution, and wives were lent and borrowed—not to speak of much adultery over and above what was legal and recognised. Another Spartan institution was polyandry, several brothers having sometimes only one wife between them, and her children being common to them all. Another difference to Athens was the free life of women, not living, either girls or married women, shut up apart from men. Only this was not the likeness of Homeric

freedom, but the caricature. For now the externals of Greek life had become such, that a girl could only remain modest by remaining in seclusion; and in Sparta the conditions of property were wholly different from Homeric Greece, when women enjoyed indeed the property of their father, their brothers, or their husband, but had none separate of their own. More than half the property in Lacedæmon was in the hands of women; they had the advantage over men in matters of business, because they were not occupied with the Lycurgan discipline, nor called away for warfare; the many wars cut off heirs and left heiresses; the former legal or customary restrictions to dowries and legacies were all or mostly gone; and the State having taken from women the partnership with their husbands and the training of their children, they took, as it were, their revenge by forming a society apart, acquiring and enjoying property by themselves, and indirectly ruling their rulers.

§ 47. However strange and repulsive some of the practices of private life among the Greeks appear to us when they were at the height of their power and their fame, these their practices are intelligible if we understand the views common among them on Politics and Economics. How indeed they came to have these views I will not attempt to speculate. At any rate they had them, and we may call their State the rule of rationalism with a vengeance. The more subtle

bonds, that link mankind and defy analysis, were reasoned away, and the old traditional governments, customary law, and unwritten constitutions, not merely gave place to positive laws and constitutions, but became wholly unintelligible even to the greatest thinkers. Between arbitrary tyranny on the one side, and anarchy on the other, they could only imagine a definite, positive, cut and dry constitution; and ancient Greece having no such constitution was looked on as an age of barbarism and oppression, much as the "philosophers" of the eighteenth century looked on the Middle Ages.[1] This constitution could assume many forms, and Aristotle has described them with the hand of a master. But they have in common the absolute and personal rule of a hereditary dominant class, and the support of this class by serfs or slaves. The more numerous this class the more necessary an abundance of slaves to allow their masters to be free to govern. Hence the Aristotelian maxim that slavery was a requisite of liberty.

[1] See Jannet, *Sparte*, pp. 26, 68, 135, who says of Aristotle: "This incomparable thinker had in the highest degree the talent of analysis; no one was better acquainted than he was with the constitutions of his own time; but he lacked the historical sense, and . . . he did not understand the ancient state of society, where the main influences were religious beliefs and household traditions." Notice that the celebrated Introduction to Thucydides shows that this wonderful master of contemporary narrative was quite in the dark about the past, treating Homeric Greece with ignorant scorn. A curious parallel is to be seen in that other celebrated Introduction, namely, to Macaulay's History of England.

§ 48. But there was a difficulty in the working of these constitutions, namely, how to keep the numbers of the ruling class at the right level. In "aristocracies" this was first felt; but in "democracies" the same thing had to be provided against; for more than a certain number could not find a living in the city, and yet to leave it was to leave what made life worth living.[1] The ideal was a stationary population; each house of each citizen to remain, without either dying out or increasing. And to secure this, arguing with perfect logic from their perfectly wrong first principles, they stuck at nothing. There were laws to forbid early marriages and to forbid entire celibacy; but this was a trifle. The old practices of the days when ancestor worship was a great force, were changed into polyandry and wife-lending; abortion and unnatural vices were approved by opinion and sometimes even by law; and the exposure of infants, though not generally approved, was common, and as far as we know only forbidden by the laws of one State, Thebes. "In their infatuation," says Jannet (*Sparte*, p. 115), "they imagined the family, and property, and all the needs and the feelings of our

[1] To go and live and work in the country, far from the seat of government, was incompatible with the classical Greek view of the life of a free citizen. This view was also a hindrance to colonisation; for it was not easy to reproduce the city life of the metropolis in a new settlement. And in fact most of the more recent colonies, about which anything is known, were founded, not by emigrants from a fully peopled state, but by refugees, the victims of foreign conquest or civil war. Cf. Jannet, *Sparte*, pp. 115–118.

nature, to be elements they could combine at their pleasure, to put in practice their notion of a commonwealth, which, without the faintest regard for tradition, they had simply spun out of their heads."

§ 49. Such philosophy among so gifted a race led them whither we might have thought. There are two Greek words that it would be well for all of us, if we only knew this much of Greek, to know. The one is *stasis;* the other *oliganthropía.* The first is to be taken as one kind of civil discord, a struggle, not between different races or different provinces, not between the country and the town, not between royal claimants or for the sake of religion or principle, but an unprincipled struggle for power and riches, the commonest form in Greece being the discord between rich and poor. Some of the earlier instances of *stasis* can be read in Thucydides, the anxious search for remedies in Aristotle, the last excesses in Polybius, till the foreigner came and made all still. The other word, *oliganthropía*, is to be taken, not simply as paucity of men or under-population, not the paucity of a new colony or a land where pestilence or warfare has been raging, but the paucity that is due to a diseased home life. In a notable passage Polybius (xxxviii. 4) bears witness to the lack of men throughout Greece, the poverty and desolation, with no continuous wars or pestilence to account for the evil. But the cause he tells us was perfectly plain. Luxurious, avaricious,

and indolent, the Greeks were unwilling to marry, or if they married to rear their children, or at most only one or two children that these might be reared in luxury, and left in affluence.

§ 50. The Roman conquest put an end to *stasis*, but not to *oliganthropia*, which lasted in a great part of European Greece for at least four centuries. And the Greeks as a whole, as far as we can judge, lived all through that time at one of the lowest possible permanent levels of morality. Of course there was a certain stock of virtue, some good family life among them—they could not have lasted without it; and in fact we have pictures of a simple and virtuous rural population living in Arcadia and Macedonia. The city of Rhodes had for centuries a reputation for virtue which must have been at least in part deserved. There is evidence of well-constituted families among the chief Athenian burgesses in the second century of our era. The effort at moral reform which I have already spoken of (§ 27) in connection with Stoic philosophy was as much Greek as Roman; and it is likely enough there were other attempts to rise out of the mire. Still these attempts had little success. The gradual assimilation with the Romans perhaps made the position of women in the house somewhat better, though the change was rather toward Spartan license than Homeric liberty. But then also the Romans infected Greece with their horrid spectacles

of blood—the gladiatorial combats and the executions of the amphitheatre. And Greek literature leaves us in no doubt of the general depravity; the frequency of divorce, of quarrels among brethren, of hunting after legacies; parents thought to be too long-lived; unnatural vice appalling in its prevalence; and all evil passions fostered by the presence of helpless and often vicious slaves, and by the foul representations of the theatre. But let us turn away from these pagan Greeks and their private life, to which a modern historian does but justice when he calls it a dismal swamp of blood and filth.[1]

VIII.—The Hindus.

§ 51. The family life of the modern Hindus is so distinct from any other, and applies to so many millions of men, that it must not be passed over. Yet I fear much that I may mix up different times and places in the general statements that are to follow, and that I may have misinterpreted my guides, or they have misinterpreted the facts. To give at least some little more precision to what I say, I mean it to apply, unless otherwise stated, to the region of which Benares is the centre, and to the early part of the present century.[2]

[1] G. F. Hertzberg, *Die Geschichte Griechenlands unter der Herrschaft der Römer*, ii. p. 280.

[2] M. A. Sherring, *Hindu Tribes and Castes as Represented in Benares*,

The first and most striking feature is the division of all the people into a number of hereditary castes, and the prohibition of marriage between them. Thus, instead of forming one people, they form many; and in this are just the reverse of the Chinese, whose rule, that you marry one of another surname, helps to keep the race united and alike (*supra*, § 1). And not only are the castes of India, numbering over a hundred, all kept distinct, but most of them are subdivided into several sub-castes, between whom likewise there can be no marriage; none, for example, between the thirty-five subdivisions of Brahmans, the seven of the carpenters, or the seven of the leather-dealers. The division into castes, be it observed, is not the same as the division into trades, though connected with it. The great trade of husbandry, and common labouring work, and many handicrafts, may be done by all castes (or almost all). But some few trades it would be pollution for any one to follow except the special caste assigned to it;—for example, washing clothes (done only by a *Dhobi*), milking cows (done only by an *Ahir*), leather-working (done only by a *Chamar*).

1872; Macnaghten, *Principles of Hindu and Mohammedan Law*, edit. by H. H. Wilson, London 1860; Sir H. Maine, *Early Law and Custom*, as well as his three earlier volumes; J. D. Mayne, *Hindu Law and Usage*, Madras 1878; Monier Williams, *Modern India and the Indians*, 2d ed. 1878, are my main authorities. See also an interesting summary of a recent Indian tale in *Macmillan's Magazine*, July 1880, pp. 211–219; E. Gibelin, *Études sur le droit civil des Hindous*, Pondichéry 1846; Sir J. B. Phear, *The Aryan Village in India and Ceylon*, London 1880. The occasional illustrations from Vedic times are drawn from H. Zimmer, *Altindisches Leben*, Berlin 1879.

And in fact many trades, though they may be done by others, and need not be the only occupation of a particular caste, are its proper and normal occupation, as potters, carpenters, weavers, and spinners. Two castes, the *Khatri* and the *Kayasth*, are particularly given to trading, banking, and legal business; while the Brahmans do almost anything.[1]

§ 52. While there is an outside limit to your choice of a wife in the rule that she must belong to the same caste or sub-caste as yourself, there is an inside limit in the rule against marrying near relatives. Your wife must not be descended from your paternal or maternal ancestors within the sixth degree, or known by her family name to be of the same primitive stock as either your father or mother.

I have spoken of choice; but this in the vast

[1] Many further details on castes, sub-castes, and the restrictions to intermarriage, can be found in Mr. Sherring's work. For example, the Brahmans are divided into thirty-five tribes, that may not intermarry; but then they are further divided into "*gotras*," these being groups each supposed to be descended from a common ancestor; and perhaps best rendered as clans. Here the rule is the reverse, and your wife, though she must be of your own tribe, must not be of your own *gotra*. Among the Rajpoots the universal rule of course prevails that you may not marry out of your caste, and so a Rajpoot can only marry a Rajpoot. But the general rule that you also may not marry out of your sub-caste (or "tribe") is here reversed, and though you must marry a Rajpoot, she must be of another tribe. Yet some tribes of Rajpoots conform to the general rule and not to this particular one. Thus the Jat tribe only marry among themselves, and moreover have non-intermarrying subdivisions. Again, among the trading and banking castes, their subcastes sometimes do and sometimes do not intermarry. So there is plenty to learn and remember.

majority of cases is not exercised by the parties to the marriage, but by their parents, who sometimes, as in China, make use of a professional matchmaker and consultations of the horoscope to find a suitable alliance. That the matter should be settled, not by the parties, but for them, is natural, since it is usual to marry very young. Indeed, children as young as five are frequently betrothed, and this betrothal is an irrevocable act. Marriage often follows when the bridegroom is only sixteen (he comes of age when he has completed his sixteenth year) and when the bride is only twelve. The chief motive for early marriage is to secure male descendants; for the worship of ancestors prevails; the dead body must be solemnly burnt, and rites must be periodically repeated, and offerings made to the spirits of the father, the grandfather, and the great-grandfather.[1] So marriage is a religious duty, and is not merely early but universal;[2] while the vigour of ancestor worship may be judged of by the common saying that "a man may be pardoned for neglecting all his social duties, but he is for ever cursed if he fails to perform the funeral obsequies of his parents, and to present them with the offerings due to them" (*apud* Maine, *Early Law and Custom*, pp. 56, 57). And these religious duties bring with

[1] According to the census returns of 1881 for the North-West Provinces, one half the males between fifteen and twenty were married, whereas in England only one hundredth.

[2] According to the afore-cited census, not one woman in a hundred remains unmarried.

them heavy expense, chiefly in the shape of giving feasts and presents to Brahmans.[1]

§ 53. The effect of marriage on property is twofold. First there is the expenditure on the marriage festival, which is the great festival of life, and if kept with splendour is remembered with pride and joy ever afterwards. This is more than can be said for much of the expenditure of those Europeans who in their narrow prejudice censure severely the "extravagance" of the Hindus on these ceremonies. Still there is a real and recognised excess at least among two castes, namely, the Kayasths, who will spend three times their income on a marriage festival, and borrow the means of doing it at 24 per cent. interest, and the higher sub-castes of Rajpoots, among whom the great expense of marrying their daughters is one reason (the difficulty of finding a well-born son-in-law is the other) for the prevalence among them of female infanticide.

[1] This does not apply to all India; for among the Hindus of the Punjab (who are supposed to be genuine Aryans, not merely the speakers of an Aryan language), ancestor worship exists indeed, but as an obscure superstition without the elaboration given to it by the priesthood further south and east (Maine, *l. c.* p. 76). In these last-named regions the classes of dead who can profit by the worship of the living are in order the ten following: (1.) Father, grandfather, great-grandfather; (2.) mother, mother's father and grandfather; (3.) step-mother; (4.) father's mother, grandmother, and great-grandmother; (5.) father's brothers; (6.) mother's brothers; (7.) father's sisters; (8.) mother's sisters; (9.) sisters and brothers; (10.) fathers-in-law. Sometimes the family spiritual teacher (*guru*) is added as an eleventh person (Monier Williams, *l. c.* p. 73).

The second effect of marriage on property is to create a fund that in a manner belongs separately to the wife. It is called *Stridhan*, and inasmuch as it can come both from the woman's father (or family) and also from the husband, it answers sometimes to dowry (*supra*, § 2), sometimes to marriage-money (*supra*, § 13), sometimes to both. But inasmuch as the husband has so little control over it—he can only touch it in extreme distress, as in the case of a famine, or if a creditor keeps him in prison—and the wife has so much control over it,[1] and on her death it follows peculiar orders of succession quite different from the general rules of inheritance, we must say it has also something of the nature of woman's separate goods (*supra*, § 24).

§ 54. The order of succession to this *Stridhan* is afflicted with various complications, but under certain circumstances it is as follows: first, the woman's daughters; then her sons; thirdly, her

[1] The subject is very intricate and confusing, as may be seen from the last chapter of Mayne's *Hindu Law and Usage*. The wife, if I understand rightly, may do as she likes with what she has received as dowry from her own relations and as marriage money in the shape of movables from her husband. But marriage money in the shape of immovables she may not alienate, though it is *Stridhan* and goes to her heirs, not to her husband's. Thirdly, she may have *Stridhan* springing from her earnings or gifts of third parties (not her relatives or her husband); and over this the husband has absolute power during his life, but no one else can touch it, he alone can restrain her use or alienation of it during his life, and after his death she is its absolute owner. But if he survives her, it is his, and passes to his heirs, not hers.

daughter's sons; fourthly, her son's sons; fifthly, any other of her descendants, and then her husband, brother, mother, father. Notice that when property has once devolved in this way it ceases to be *Stridhan*, and in future follows the ordinary rules of succession even when it goes to women (on which see *infra*, § 64).

There is another kind of *Stridhan* belonging to unmarried women, but they are so few that I think this matter unimportant; whereas the other kind is common because it is the rule to give a dowry, and, indeed (Maine, *l. c.* p. 110), if the father is dead the unmarried daughters have a claim on their brothers to give them a portion on their marriage (generally a definite fraction of what the brothers would receive, if there was a division of the property).

Excepting her control of her *Stridhan*, a woman, unless to get the necessaries of life, or unless intrusted (as among traders) with the management of her husband's affairs, is unable to make a contract, and remains in perpetual tutelage, always under the authority of father, agnates, husband, or of her own sons. But we should greatly err if we thought, because the Hindu mother often becomes at law the ward of her sons, that she has less control over them and honour from them than in England, where such a legal relation would be thought unjust and absurd: for she has more. It is held wicked for them to live apart from her; and she rules their household

and their wives almost as though they were all Chinese.

§ 55. The position of the widow with sons is therefore a good one; but if she has no sons, above all, if she be young and childless, she has before her only a life of humiliation and woe. Among some castes, indeed, that are not held high in the scale of dignity, widows may marry again; among some it is even the custom for the younger brother to marry the widow of his elder brother (like the Jewish levirate); but the general rule forbids their re-marriage. And this prohibition means something quite different from what it would mean with us. For if the future husband dies after betrothal, the betrothed girl is held to be a widow; and as betrothal is frequently concluded when the future husband is but a child of five or six, a girl may be a widow for life at the age of two. Scarce a house-community therefore exists without a child widow;[1] and every village has many widows, who are household drudges debarred from amusements, meanly clad, allowed but one meal a day, looked on as an evil omen, often leading bad lives; and often they would be glad to be burnt, only the English have forbidden it, on the funeral pile of their husbands. True that she has her *Stridhan* and

[1] In the Madras Presidency, according to the census of 1881, out of a population of thirty-one millions (or less than that of the United Kingdom), the widows under twenty years old numbered 81,043.

a right to be maintained by her husband's kindred; true that in the exceptional case where she has not been living in a joint family she has a certain restricted use during her life of the property of her husband, in fact, a sort of dower, and that in the province of Bengal she has this right even though she has been living in a joint family. But what benefit is wealth to her when all her neighbours and relatives deem her proper portion to be a life of humiliation? And precisely in Bengal, where she is most privileged in matters of property, the practice of suttee, that is, of her burning herself at her husband's funeral pyre, was most common in the early part of this century. It was almost universal among the childless widows (scarce ever among those who had children) of the wealthier classes; and perhaps was a lesser evil than the life it cut short.[1]

§ 56. Polygamy in the strict sense was formerly not permitted by Hindu law, which treated a second wife as a sort of concubine, whose children were not

[1] Sir H. Maine (*Early Institutions*, pp. 335, 336) explains the anxiety of the widow's family that she should immolate herself, by the coarsest motive, the desire to get the property she would else have enjoyed for her life. But this seems a want of historical impartiality. For though such a desire may have helped in establishing the rule that a widow ought to immolate herself; when once it was established, we may justly suppose such motives as family honour, the spiritual good of the widow, and even the sparing her a life of sorrow, may have been the main reasons for her family encouraging her to perform this great act of religion. At the present moment, in Bengal, Sir H. Maine observes how, marriages among the upper classes being very commonly infertile, much of the soil is in the hands of childless widows as tenants for life.

recognised as legitimate. The first or proper wife alone could perform the domestic religious rites; she was the recognised superior of the other wife or wives; she did not share with them her rights of succession to property, but took all that a wife can succeed to. Now indeed (whether the change was previous or subsequent to British influence I do not know), polygamy is allowed; all the widows have joint rights and a claim to survivorship; and their children are all alike legitimate. This does not mean that the practice is unknown, or rare, of keeping concubines, whose children are illegitimate and have no claim to succession, but only to aliments.

Although polygamy is now allowed, yet, if we except some few castes, among the rest, I believe, it is little practised. In this the modern Hindus are not unlike their ancestors in Vedic times, when polygamy was almost restricted to kings and nobles. And they are not unlike in the matter of divorce, only a little laxer. In that old time an indissoluble bond was created by the solemn religious ceremony of marriage. And divorce is still quite against the spirit of the Hindu religion, which makes the wife half of her husband's body, not to be parted (such is the ideal) even in death, still less before. Marriage is in principle irrevocable; and though the wife may be put away for some specified reasons (attempt on the life of her husband, wilful miscarriage, sacrilege, sterility, and adultery), she must always be maintained

by the former husband, and if guilty of no crime she has claims on him that may amount to a third of his property.[1]

§ 57. The rarity of divorce and of polygamy is, as we have seen, no new thing among the Hindus; whereas the seclusion of their women is wholly unlike the position assigned them in the time of the Vedic hymns. Then they seem much like the women of the Homeric age: maidens and youths meeting in society, particularly at religious festivals, and marriages determined, not indeed without the consent of father or family, but still in the main by the free choice of the young people themselves. So in that distant past we see regular courtships, maidens resorting even to charms to keep fast or win back their lover, youths in torture of mind lest their lady-love reject them, lovers' meetings, quarrels, and reconciliations; whereas now there is no such thing as courtship, marriages, as I have said, being very early, and wholly settled by the father or kindred, not by the youth or girl themselves. Moreover, the old freedom of social intercourse is gone, and women are more or less secluded: more among the rich and in the towns, less among the poor and in the country, but even here living in a separate part of the house from the men, and

[1] If I understand rightly, she has a right to a sum equal to the expenses of the husband's second marriage, deducting any *Stridhan* she may have, and provided that the sum in question is not more than a third of her husband's property.

whither no stranger is ever admitted, taking their meals not with but after the men, and not allowed —at least under certain circumstances, and while of a certain age—to see or speak with certain of their kindred or neighbours.

The common practice of living in joint families, and the consequent size of the homesteads, renders the seclusion of women and the secrecy of family life more easy to be effected, and the houses of the peasantry are arranged for the purpose; nay, this secrecy (as Sir H. Maine has been told, *Village Communities*, p. 114) is maintained in very humble households, and under difficulties which at first sight would seem unsurmountable. So in this aspect Hindu society is more like Attic than Homeric Greece. And there is yet another point of melancholy resemblance between the classical Greeks and the modern Hindus, that their religion is contaminated with obscene mythology and representations, and that although almost all public singers and dancers in India, if they are women, are prostitutes, their presence is required by superstition or by imperious custom at family festivals.

§ 58. The relation of parents and children among the Hindus has drawn praise from European observers. Filial piety is strong, and is extended to the mother as well as to the father; while the children are treated with a kindness that is perhaps unequalled elsewhere, are decked with ornaments, and are the joy of their

parents. The general difficulty indeed of house-communities, namely, the relations of the daughters-in-law with their mother-in-law, is not unfelt, and the subordination of the daughters-in-law is not so complete as in China. Still they are subordinate—it is natural, considering they are usually mere children when they leave their parents' home—and the young wife seldom speaks to her husband in the presence of his mother. Moreover, as in China and Regal Rome, the father is the ruler and judge over his children, and the law scarcely interferes between them or enters within the forbidden limits of the home. And the father is not only obeyed by his children without question during his life and honoured by their worship after death, but they have no property of their own, however old they are, as long as he lives, except what he gives them, or what they receive if he retires from active life to become an ascetic, and distributes the inheritance among them.

§ 59. But then there is the converse of this: the father is no absolute master of the family goods, but rather their steward and sharer. His sons from their birth have vested rights in all inherited property, their consent is required before he can transfer it, and only what he acquires himself is at his disposal. And even in the disposition of this last he is restricted by religion though not by law during his life, and he has no powers of disposing of it after death, much less of

anything else. For wills as a means of altering the course of inheritance, and not as a mere means of making pious bequests, can be said, I think, to be unknown, that is, speaking of Hindu law as the English found it, not as they have altered it with their wills, their seizure for debt, and their irrevocable sales for non-payment of taxes. Moreover, although it is doubtful whether an aged parent can be forced into religious retirement by his sons, such retirement is strongly counselled by religion; and if he does retire he can only partition in a certain way, giving equal shares to all the sons and keeping two shares for himself. It may be observed that the Hindu paterfamilias in many cases requires the consent of his fellow-villagers as well as of his sons before he can alienate his land, being no absolute owner, but rather a partner in the village community, with various duties as well as rights; and he cannot arbitrarily assign his place in that local constitution to any one he likes, but must get the consent of his fellow-members.

§ 60. Adoption is an important branch of modern Hindu law, being the great expedient by which a man, who has no sons or son's sons, procures for himself a successor to perform his obsequies. It is even lawful for the widow to adopt in the name of her husband if he has neglected to do so (though in Bengal she must have before he dies his authorisation to adopt, and in the south of India she must get the consent of his

near relatives). The great rule is, that you may resort to this artificial affiliation only when it is necessary, that is, when you have no male descendants through males. In the choice of an adoptive child you are not so restricted as in China (*supra*, § 7), but he must be of the same tribe (or sub-caste) as yourself, and must not be an only son or eldest son, lest you injure another family by removing him to yours. There are other restrictions varying with caste and locality, and the general injunction of religion that you choose from among your nearer agnates. When the adoption is completed the child becomes for most intents and purposes your son, and thus as long as he lives you can adopt no one else: for now you have a son.

§ 61. There is a likeness between the modern Hindus and those of Vedic times in adoption being the one substitute for legitimate sonship; only then it was thought a poor substitute, now a good one. In the long interval between these two periods, while the desire for male offspring has remained constant, the view of substitutes has varied. I have already remarked how natural it is, under the yoke of superstition, for evil customs to arise (*supra*, § 47, note); and they have arisen among the Hindus, though never all of them wholly approved, and the disapproval ultimately mastering the approval, and restoring Hindu family life in this matter to the level of the Vedas.

The children, though illegitimate or adulterine, of a woman who occupied the place of wife or concubine in a man's house, could be reckoned as his own children; and he could have a child raised up to him, either during his life or after his death, from his own wife by a kinsman, a practice called the *Niyoga*.[1] Another and less unworthy contrivance was the power of a father who had no prospect of legitimate sons, to "appoint" one of his daughters to bear a son, who should not be treated as her husband's son, but as his own; and it seems that the husband's consent was not required, and that he was thus liable to have one of his own children converted by a fiction into the son of his father-in-law.

§ 62. The prevalence of joint families is one marked feature in the relations among brethren in India; nor can the law of inheritance be understood without it. We have seen that during the life of the father (unless he retires into religious life) his children have no property apart from him. But on his death there is no necessary break-up of the home and goods; on the contrary, the brethren habitually dwell together, and use the home and goods in common. And this community may go on for many generations, and the joint

[1] This is a very different institution from the Jewish Levirate (*supra*, § 13); for there the sanctity of the marriage tie was not violated, the widow becoming the true and one wife of her brother-in-law; but here, even when the woman was a widow, there was no necessity for the kinsman marrying her.

family comprise several hundred persons. Naturally this large number cannot be reached among poorer villagers, where the original holding was small; in which case, as soon as the joint family grows too large to get a sustenance from the land, the younger members "give up or sell their shares to the others and find occupation elsewhere as best they can" (Phear, p. 78). And now everywhere the English law is an agent fostering the dissolution of joint families. But I am considering native law and custom, according to which, although any man among the members who is entitled to a share has a right to have it separate, religion or custom generally hinders this right being used, unless there is necessity for a partition. Community of worship, mark, is one great bond of union: common ancestors, a common family deity, and common idols. And although the different members have in one sense different shares (the six sons of a dead brother, for example, would on a partition have only one-sixth of what their uncles would have), as long as they keep together, they enjoy in common, without regard to theoretical claims, and all their earnings are brought into the common fund. There is an exception indeed, but it only makes the rule the clearer. "Whenever a member of a joint family has acquired property through special scientific knowledge or the practice of a liberal art, he does not bring it into the common fund, unless his accomplishments were attained through a training given to him by his family

or at their expense" (Maine, *Early Institutions*, p. 110). But the case thus provided for is plainly exceptional.

§ 63. The community of enjoyment indeed does not mean that there is no separation among the different families united in the joint family. On the contrary, the arrangement of the joint homestead is adapted to give each family a separate lodging. Among the poor the house is a group of one-storeyed huts, which can be multiplied as required. Among the rich the house is two-storeyed, and built round a quadrangle in a manner that makes it possible to add a second, third, or fourth quadrangle if required. And in the one case the quadrangle, in the other the space enclosed by the huts, forms a convenient place for common work or play, while there is a common portion of the dwelling allotted to all the women.[1]

Like all other societies, the joint family must be governed; and while each father (or more correctly each male ascendant) within it has a special authority over his own descendants, the whole body is subject to a single head, who is elected indeed, but is generally the eldest male of the eldest line, if not unfit by age or imbecility; and if the eldest son is passed over, generally a brother of the deceased head is elected. This head is the manager of all common concerns, and generally in richer and more numerous joint families

[1] See, for Bengal, a lively description of the dwelling-places in Sir J. B. Phear's *Aryan Village*, pp. 7–12, 16–18, 81–87.

all is left to his discretion, such as purchases with the joint savings, and borrowing for any extraordinary joint outlay. He gives the members small sums of money, as they want it, for ordinary personal expenses, and they require of him no audit. In the earlier stages of a joint family, though the legal head for external business must, I imagine, always be a man, all internal matters are often under the rule of an old grandmother, who keeps order with wonderful tact.[1]

§ 64. The rules of inheritance which hold good, *mutatis mutandis*, when a joint family is dissolved and the property partitioned, are in chief as follows. All the legitimate sons are entitled to equal shares of the whole property, and the share of a deceased son can be claimed by his sons. Thus the sons take, as the phrase is, *per capita*, the grandsons, *per stirpes*. But this first article of Hindu law of succession requires three annotations. It does not apply to the property of women called *Stridhan* (*supra*, §§ 53, 54), which follows, as we have seen, a peculiar order of its own. Secondly, the widowed mother and any widows of dead brothers must be supported by the brethren, as well as unmarried sisters, upon whom, moreover, a proper sum must be spent on the occasion of their marriage in the shape of dowry and nuptial solemnities.[2]

[1] According to Monier Williams, in a lecture to which I have lost the reference.

[2] The proper sum is a matter, if I understand rightly, of custom or at most equity rather than strict law, and is supposed to be one-fourth of

Lastly, the eldest son, besides the privilege of headship as long as the family remains in community, has by some local customs the right to a double share on a partition, often also to what is held incapable of being partitioned, as the family house. Sometimes indeed it is the youngest of the sons who has a right to this extra share.

§ 65. The failure of legitimate male descendants in the male line is much less likely to occur than with us, because of the universality of marriage and the power of adoption. But if there is no such real or artificial descendant, then in most of India, if the deceased has lived in a joint family, his nearest associated male agnates succeed. This succession indeed is only an hypothesis; there need be no change in the joint family beyond the loss of the dead member; only if there was a division the share of this dead member would be distributed as aforesaid. But if the deceased has not been living in a house-community with his brethren (and in Bengal in any case) his widow first, and then his daughters, have the use of the property for their lives, and then it reverts to the male agnates.[1]

a brother's share, but with the two elastic conditions that the estate be not so small that such a burden would be too heavy to be put on it, or so large that the fourth aforesaid would be an exorbitant sum to spend on a marriage.

[1] "The rule exists universally (except perhaps in Bombay) that where any female takes as heir to a male, she takes a restricted estate,

It is not necessary to go into the details of collateral succession. The general rule is that kinsmen through males exclude those through females to the fourteenth degree. But in Bengal cognates are admitted much more freely than elsewhere, and sometimes are preferred to agnates. And there is another general rule, though also with exceptions, that those who are most entitled and bound to worship the deceased, and from whom he will receive most spiritual benefit, are preferred. The ancient claim of the spiritual teacher or the pupil to succeed on failure of kindred is still retained, at least by the letter of the law.

More important than these minutiæ and curiosities of religion and of law, is the great fact of union and mutual help among kindred, and this not only within the limits of the joint family, but outside. The Hindus are not ashamed of their poor relations. "Nothing is commoner than for one man, not necessarily a rich man, to maintain, so far as food is concerned, several branches of his family year by year" (special correspondent in *The Times*, 11th August 1874). All indeed is not well with their family life; but at least that life is vigorous.

and on her death, the property passes not to her heirs, but to the person who would be the heir of the last full owner."—J. D. Mayne, *Hindu Law and Usage*, § 523.

IX.—The Burmese.

§ 66. The Burmese are a people deserving of study, as they may be held, I believe, to be the best representatives of Buddhism. The following summary of their family life may be taken as applicable to British Burma before our conquest, and to independent Burma now.[1]

Among the Buddhist monks, a numerous class, and the less numerous female recluses, celibacy is strictly observed, and any breach of this fundamental rule would compel them to become laymen. Among the rest of the community marriage is universal, but, in striking contrast to China and Hindustan, is no solemn act of religion, nor is arranged for the young people by their elders. On the contrary, it is a purely civil matter, without any ceremony being needful; it is looked on from the Buddhist point of view rather as a concession to human frailty, and is settled by the young people for themselves. The girls marry between seventeen and nineteen, and courtship is conducted freely and not improperly. The parents seldom interfere except to advise; and the Buddhist law forbids their opposing the wishes of their children. And

[1] The authorities followed are: the excellent work of C. J. F. S. Forbes, *British Burma*, 1878; Howard Malcom, *Travels in South-East Asia*, Boston, 1839, vol. i.; and, with much reservation, Albert Fytche, *Burma*, 1878, and Sangermano's *Burmese Empire*, translated by W. Tandy, Rome 1833.

in another aspect there is great freedom of choice, for there are no restrictions of caste or other rules to seriously limit your choice of a wife; nor are there strong social barriers as in Western Europe; so that (putting aside the outcast race of pagoda serfs) such a thing as a *mésalliance* is scarcely possible. It is a free and easy land; one man is as good as another; and though all bow down low to the officials and the monks, anybody may be made an official or become a monk, and there are no hereditary positions, except the pagoda serfs and some other outcasts at the bottom of society and the king at the top.[1] Marriages so easily formed are, as might be expected, as easily dissolved; but first let us speak of the effect of marriage on property.

§ 67. Dowries are rare or unknown, and if I understand rightly there is little in the nature of a trousseau (or bridal outfit provided by the bride's family). On the contrary, the bridegroom is expected to provide almost everything according to his means. So the payment of marriage-money is the first conspicuous point in the effect of marriage on property. The second is a species of bride-money, that is, the bridegroom after the marriage must live three years, three months, and three days in his father-in-law's house,

[1] Perhaps we should add, a few revenue officers *de jure* or at least *de facto* hereditary. Coffin-makers, executioners, and lepers are outcasts. The executioners are reprieved felons.

working as a son of the family; then he may take his wife away and set up house for himself. He may indeed, if his bride is willing, set up house at once. But then he must pay his father-in-law sixty ticals (perhaps corresponding to some £12 in England); similarly, if he leave before the three years, he must first come to an agreement to pay some compensation. The third point is the prevalence of wife's separate goods. A woman, whether maid, wife, or widow, can acquire and hold property in her own right, and not only can, but is likely to, and for two reasons. First, because daughters have considerable rights of succession to property; secondly, because women engage in business almost as freely as men. There is no seclusion, no veiling of women; most of the retail business is done by them; they often carry on a petty sale of eatables in the cottage verandah as a private speculation; and they are often in legal partnership with their husband. For Burma is indeed the land of the emancipation of women. A man seldom does anything important without first consulting his wife: the wife manages the more important mercantile concerns of her husband, and if he is an official, shares his rank in a certain sense; for example, she will receive and give receipts for taxes, and have a criminal arrested and sent to court quite as a matter of course if her husband is absent. The separate goods of the wife cannot be taken by the husband, except under rare and peculiar circumstances, and on her death pass to

her own children or heirs, not to her husband's. And remember, no deeds of settlement are required to create these separate goods, and they comprise lands as well as movables. Moreover, and this is a fourth point, the widow is entitled to an immense dower, something like a half if there are children, and all if there are none (*infra*, §§ 72, 73). It is not surprising, considering all these institutions, that a widow, at least if not old, is soon married again.

§ 68. There is yet a fifth point to be noticed about marriage and property, namely, the effect of divorce. I think nowhere has divorce been so easy, nowhere perhaps so common. Husband and wife can separate at any time by mutual consent, dividing their property equally, and the father taking the sons, the mother the daughters. And either party can dissolve the marriage though the other party objects, by surrendering his or her property, or by the less onerous plan of becoming a Buddhist monk or nun, by which any marriage is instantly dissolved, and then, after a decent interval of some months, returning to secular life. The wife also can claim a divorce if the husband cannot maintain her, or ill-treats her; in which case she takes away all her own property, and part of what she has acquired jointly with him. The husband also has the right to put away a barren or unfaithful wife without (I believe) any payment from his own property.

Polygamy is allowed, but is rare and less respected

than monogamy. The first wife, moreover, is the chief, and lives in the family home, while the other wives are never under the same roof as she. All the families of a polygamous father are kept distinct, the children inheriting their own mother's property, and whatever is acquired by the joint industry of their parents; for a man often carries on a separate business in partnership with each wife.

§ 69. The independent position of women has been compared to that of the Roman women under the Empire (on whom see *supra*, §§ 24, 25). But the differences of the two societies are probably much greater than the likenesses. In particular the Burmese are good mothers, at least, in the physical sense of being prolific and suckling their children for two or three years; they are rarely unfaithful; and mark that prostitution only exists in the large towns with a mixed population, and that external modesty is well kept, and that in a crowd there is none of that coarse familiarity toward women that we see in England, but they are treated with courtesy. The richer women no doubt are said to be ignorant and indolent, and this may be due to the absence of higher education for women, who are entirely excluded from the monastic schools which form the great institution for education. But Burma is not the land for rich people, or for being educated better than your neighbour; and at any rate there is no question about the activity

and intelligence of all the women except the few who are rich. There is at least one loom in every house; and besides spinning and weaving and doing the trading already spoken of, their chief employments are the preparation of rice indoors and the light agricultural work of transplanting the young rice plants.

§ 70. The young are taught to reverence the old, and children their parents. A particular form of address is used by a young person when he speaks to one in middle life, and another form is used by both when they speak to an old man. Children are almost as dutiful and obedient as in China, and are greatly controlled by their parents even in middle life. Marriage indeed is left to the young, and the father has, I believe, no power of making a regular will; no death-bed donations to friends or connections are allowed, and any donations made previously, but not yet paid, can be claimed by the heirs. But parents may disinherit and expel a disobedient son; they have, I think, some power of naming a son to be the chief heir; and they may resume at pleasure any gifts they have made to their children.[1] Also during his life-

[1] There is one exception indeed. It is usual for all respectable lads to be clad with the monastic habit, and remain in the Buddhist monastery, it may be only a few days, or it may be, in order to complete their education, two or three years. A great festival is made of the ceremony of clothing; and on this occasion it is usual for parents who have some means, to settle some property, as cattle or gold, on the lad, and such gift is irrevocable. Forbes, *British Burma*, pp. 165–167.

time a man has great power of alienating his property and binding his children for his debts. Two motives, one spiritual, the other temporal, are much in the way of a man accumulating wealth for his children, and on the contrary encourage him to spend it in his lifetime. One is due to the Buddhist doctrine of merits. The layman towards the close of his life, more rarely in his prime, seeks to accumulate merits by abundant donations to monks, by building monasteries, pagodas, rest-houses, bridges, and other works of religious or public utility, by almsgiving, and, as they say, by hearing, thinking on, and obeying the law. This is a very different matter from the retirement of the aged Hindu parent and the distribution of his goods among his sons (*supra*, § 59). For in Burma a man will give the best part of the savings of a lifetime to build a monastery (*kyoung*), a petty shopkeeper will often spend £700 or £800, or more, on such a purpose, and gain the honourable title of *Kyoung-taga* (supporter of a monastery); and such conduct causes no dissatisfaction among his heirs: even though his family be reduced to poverty, they acknowledge he has done right. So merits are accumulated, not wealth. And there is the temporal motive that a man who had amassed much wealth, and tried to make it a means of lasting enjoyment and power, as we do in England, would quickly find himself the mark of oppression and extortion, himself in danger, his goods fastened on by the government; so hostile

are the institutions of the country to any hereditary eminence!

§ 71. The father has not only power to alienate his property without regard to his family, but in order to free himself from debt or to obtain food may even pledge his children,[1] binding them as servants till the sum is paid for which they are pledged. This power is sometimes spoken of as the right of selling the children as slaves. But this is taking a great liberty with the usual meaning of the words sale and slavery; and only serves to mislead us. The children (and the same rules apply *mutatis mutandis* to adults who pledge themselves) are protected in their service. If beaten violently the bond debt is reduced by one-third, and thus three fits of temper may deprive the creditor of all he lent. If the bond-servant die from ill-treatment, the creditor, besides losing his money, has to pay the parents a fine. If a bondswoman bear her master a child she becomes free, and if she choose to remain, her former master must support her as a wife. Generally a parent redeems his children as soon as he can; and there is this great security, that

[1] Some of my authorities say that he may also pledge, or, in their phraseology, sell his wife; but this seems in contradiction with the right of the wife to demand divorce if he cannot support her. Perhaps the real explanation is that the wife, in order to support her husband and children, goes of her own free will into service, not necessarily quitting her home. The legal form for such service is that she is pledged by the husband or by herself for a certain sum to the master or mistress, and must stay in service till the sum is paid off.

the master must give them up, as soon as the sum for which they are bound is handed to him. Thus I understand it is easy for a parent who is dissatisfied with the treatment of his children, or an adult with his own treatment, to get a fresh master. In fact, bond-servants are not treated with more severity than hired servants; they differ little from their masters, if these belong to the middle class, in food, dress, and lodging; their children are free; and they themselves often live in their own houses like any one else, only liable to be called on for labour; and this in practice may be only at certain seasons of the year.[1]

§ 72. As far as I can gather from somewhat contradictory statements on Burmese law, the main features of inheritance are as follows. The debts of the deceased must be paid, but not gambling debts, for these can only be recovered from the loser, not from his family or heirs. Naturally, among the debts are those for which children have been given in bondage; these children can claim the amount for which they were pledged, in addition to their share of the inheritance; and thus the death of the father sets them free if he leave assets sufficient. The funeral expenses also must be paid; and this is not

[1] These Burmese bond-servants seem to bear a striking resemblance to those Roman children or adults who were in the state of dependence known as being *in mancipio*. See *supra*, § 19.

a light matter, for large alms to the Buddhist monks are expected, and there are instances of families being reduced to poverty by too magnificent a funeral. Then, if there are no children, the general rule is that the wife takes all the deceased husband's property and the husband all the deceased wife's. If there are children the surviving parent takes most, but something goes to the children. Complications occur through the frequency of divorce and second marriages; the general solution is that property acquired during the first marriage goes to the children of that marriage, and acquisitions during the second marriage to the children of the second marriage.

In the division of property among the children, first, notice that all the jewellery and other personal ornaments given to them before the parent's decease are retained as their own; and that such ornaments form a much larger proportion of assets in Burma than in England; secondly, that the capital given by a father to a son to trade with must be restored and merged with the rest of the inheritance, but that any profit he has made from it is his own; thirdly, that authority and a greater share of goods fall generally to the eldest son and eldest daughter.

§ 73. I cannot say what is the exact extent of power and preference of the eldest children, or whether the eldest daughter has power if there is an eldest

son, and, if so, what are the relations of these two authorities. Mark, however, that families of only one sex are artificially increased by the practice, when there is a divorce, of the mother taking all the girls, and the father all the boys. Then too, a large proportion of the younger sons, I think, become celibate and mendicant monks, leaving only an eldest son and his sisters. And this much, I think, can be said about the details of partition, that female bond-servants generally go exclusively to females (widow or daughters), and that if a man die leaving a widow and children, the eldest son, or one selected son, succeeds to his father's military accoutrements, apparel, bed, and jewels, and to one of his fields; the rest of the property is divided into four parts, of which the widow takes three and the other children one between them.

Although two or three families are often found dwelling under the same roof, in consequence of the husband spending the first years of his married life in his father-in-law's house (*supra*, § 67), joint families in the proper sense are, I think, uncommon or unknown. The bonds of relationship indeed are recognised, and the duty of mutual help; there are some families even who can trace back their pedigrees for some generations. But in general we can say, I think, that family feelings, traditions, and distinctions are slight. This is seen in their names. They have not an idea of surnames, only personal (as we say,

Christian) names. A man, for example, may be called Elephant, Umbrella, White, Forest, Little Pig, Turtle, or Buffalo, and a woman: House, Frog's Egg, Dog, Pretty (naturally without the ridiculous sound the translated name has to our ears); and to this personal name you prefix a title of respect, equality, condescension, or friendship. And honorary titles are in use, such as, Supporter of a Monastery, Builder of a Well. But all this merely affects and designates the individual, irrespective of his family.

§ 74. This general equality of birth is in harmony with the general equality of fortunes. One man may have a larger house than another, a dress made of silk instead of cotton, more gold ornaments for his wife and daughters, more cattle or stock-in-trade than another; but he differs from him only in degree, not in kind; no gulf separates rich and poor; and besides the risks of having unusual wealth (already spoken of) and the frequent scattering of fortunes by donations for purposes of religion, the land laws prevent any large private estates and make easy the creation of small ones. You may only hold what you pay taxes on; and even if it is legal, it is worth no one's while to hold large tracts of land cultivated with little intensity, like the pasture-holders of Australia, America, and the United Kingdom. Nor is there in Burma the indirect holding of land by the contrivance of mortgage (or hypothec). You can pledge your

land or house, but the creditor takes instant possession, has the use and enjoyment of the property instead of interest, and at the end of three years, unless you redeem the pledge, becomes absolute owner. While wasteful and encumbered estates are thus kept in check, the formation of small estates is fostered by the law that allows any one to occupy land not already occupied, and to have it as his own if he enclose and cultivate it. About ten acres is, I believe, a common, perhaps the general, size of estates. All the unappropriated land belongs in a certain sense to the crown; but I think it would be more correct to say it belonged to the nation; and the king himself is often a buyer of land.

It is curious to mark how many social features are seen in Burma that many writers and politicians recommend for Europe. The "emancipation" of women, the facility of divorce, the absence of hereditary dignities and wealth, "free trade" in land, cremation (which is the general mode in which they treat their dead), the State and its officers being so much, private families so little. And the curiosity of their language, that has different words for the same action—for example, sleeping, if the person (the sleeper) be the king, a monk, or an ordinary mortal—is perhaps not without analogies in the political language of Europe and America. But the salt that preserves that society is not part of the programme of our reformers. Amid the equality and mediocrity of the Burmese, the monas-

teries are a secure home of literature and art; amid their ease and freedom, the people have still kept the sense of reverence; it is not there that insolent and shallow youth derides the wisdom of age, or that children turn against their parents.[1]

X.—The Egyptians of the Demotic Period.

§ 75. Among the Egyptians, when they fell under Greek rule, family laws and customs were widely different from anything I have already described.[2] There was indeed a kind of ancestor worship, but it differed in two essential particulars from that of China, Greece, and Rome; first, in the preservation of the mummied corpse, and secondly, in the memorial rites being performed, not by the children of the dead, but by priests. In ancient days it was the eldest son who poured forth libations and prayers at his father's tomb; but now the whole matter had become a matter

[1] I am well aware that thirty years of English rule have much loosened in British Burma the bonds of religion and dutifulness. See Forbes, *l. c.* pp. 45–46, 60, 87, 325. Whether the liberty, equality, and fraternity of Burmese men and women will continue under the changed moral conditions is a matter worth the watching.

[2] I copy often almost word for word the summary given in *The Times*, Dec. 24, 1881, and Jan. 9, 1882, of Eugene Révillout's discoveries given in the *Études Égyptologiques*, Paris 1880, under the title *Chrestomathie démotique*; and I add from the same author's *Cours de droit égyptien*, Paris 1884.

of contract, and the profitable employment of an hereditary priesthood, who not only contracted in the most businesslike way with the relatives for the various services of the dead, but also among themselves. The priests sold, mortgaged, and bequeathed the tombs and mummies intrusted to them, with the lucrative endowments or claims attached to this trust.

Another peculiarity of the Egyptian law was that, while on the one hand there was no such thing as bastardy, and all children whose father was known were held his legitimate children, on the other hand no one was allowed to supply the lack of own children by adopting those of others; and this great means of securing an heir and a worshipper by fictitious relationship was cut off.

§ 76. But the greatest contrast to the manners of the Greeks, and what most excited their astonishment, was the position of Egyptian women. Whether as spinster, wife, or widow, a woman could buy and sell, and make all sorts of contracts, without requiring to ask any one's permission or get any one to act for her. She was completely *sui juris*, her own mistress; in particular, she was completely independent of her husband. And more than this, he was habitually dependent upon her. For marriage was the result of a contract, the terms of which were the matter of previous debate; and in this debate the woman habitually got the better of the man. Even the slave-

concubines, to whom law or custom gave much security and protection, seem to have been able sometimes to enter into a sort of marriage contract with their master, and bind him to take no other wife or concubine. Among equals the marriage contract was generally such that we can reduce it to the following eight clauses: (1.) The "acceptance" of the woman as his wife by the man; (2.) the nuptial gift he gives her; (3.) the promise of an annual allowance for dress, at least during the first year; (4.) the declaration that the eldest son of both shall inherit the guardianship of all the husband's property; (5.) the promise of the man to hereafter "establish" the woman as his wife; (6.) the covenant for payment of damages if he take another wife; (7.) a list of the woman's trousseau; (8.) a guarantee in the form of a mortgage on all his property. The husband indeed did not pledge himself irrevocably, for after "accepting" the wife he might still at the end of a year separate from her, and she from him, honourably. They had a year's trial of each other; and then, if the marriage continued, the husband "established" the wife, and by this second ceremony was bound to her for life, nay, in such a manner that any infidelity or polygamous second marriage made him lose all he possessed. Thus, although polygamy was legal, the rule of contract ended by making it impossible where the first marriage had been fruitful. Moreover, the husband took the name of his wife instead of giving his name to her; and the

children were called, not after their father but after their mother.

§ 77. The degree of marital dependence varied according to the contract and the circumstances. In the extreme, and yet the most common case, he gave up everything except the pitiable claim to be supported by his wife during his life, and to receive embalmment and memorial rites after his death. The wife possessed everything, and could make contracts as she liked; nor was she even bound to have a common domicile with her husband. And it was she who distributed the goods among the children, even during the husband's lifetime. Whether she could squander all the property without any regard to the children, I doubt; but, at any rate, she had much greater liberty than her husband, even supposing he had kept all his rights, and had not made them over to his wife or children. In fact, paternal power appears to have sunk almost as low as marital power. As soon as children reached the age of about thirteen or fourteen, they attained their full majority, and could buy, sell, and transact any other business in the lifetime of their father entirely without his intervention.[1] Moreover, the father had to get the consent of his children before

[1] No doubt parents, mothers especially, often joined their names to the contracts of their children who had reached majority; but this was not so much an approbation as a guarantee against possible litigation; and there was no need of any "emancipation" before a son could hold property of his own.

he alienated his property, and was rather the administrator than the owner. And generally he gave up the little power he possessed by making over all or most of his property to his wife, as I have already noticed, or to his children, and remained a mere pensioner, or at least a usufructuary or life-tenant, with very limited powers.

§ 78. If the property had been transferred to the children, the eldest son became the administrator of the family, representing it before the tribunals and all third parties, and distributing their shares in due time to his brothers and sisters. And the same arrangement was in use when property passed to the children by the death of the parents. The eldest son, or rather the eldest child, for a daughter seems to have had (as among the Basques) just the same privileges as a son, was master of all the property, but was bound to make a fair distribution, I think, in equal shares to brothers and sisters or to the children representing them. But there are instances of the eldest son making an uneven distribution, or keeping the goods for himself instead of distributing them; and I think the eldest child, whether daughter or son, might secure the lion's share by getting gifts from the parents (especially from the mother) and by getting written renunciations from the younger brothers and sisters. Remember, in explanation of this somewhat equivocal position of the firstborn, that the old system

of hereditary trades continued in full force among the poorer classes, the father's business being invariably continued by his sons, and that a business can scarcely subsist without a recognised head.

§ 79. The law of inheritance put women and men as regards property on an equality; the law or custom of marriage put men, as we have seen, below women. I should add that the woman rarely made any sacrifice of property corresponding to that of the man. What she possessed or acquired remained as her separate goods; and although dowries were not unknown, they were rare; for the man who accepted money with his bride was held disgraced. Thus it came about that the wealth of the middle and upper classes was vested absolutely, or nearly so, in the hands of the married women. Nor were they merely passive holders, but actively engaged in business as buyers and sellers, mortgagees and money-lenders, and even as contractors with the State. It is an exaggeration indeed of Herodotus and Sophocles to say the women did *all* the trading and marketing, while the men sat at home at the loom; and probably among the poorer classes, at least among those working on the land, the stronger arms of the husband gave him a higher position before his wife than was enjoyed by his superiors. Still the Greek writers were not inventing but only exaggerating the facts.

How and why these Egyptian family customs arose,

with the depression of the paterfamilias, the dominion of women, and the simoniacal priesthood, is not certain; what we do know is that once it was otherwise.

§ 80. In truth this women's rule was a growth since the days when the Great Pyramids were built. For we have evidence that in those ancient times the father was the head of the house, the real master of the property, the ruler and chastiser of his children, able to choose for them a husband or a wife, without any need of their consent. The papyrus of the reign of Assa-Tatkéra, perhaps the oldest document in the world, contains exhortations to filial piety, that we might have thought written for the Chinese. "The son who listens to his father's words shall have length of days for his reward. . . . The obedience of a son to his father is a joyful thing . . . he is dear to his father, and his good report is in the mouth of the living who walk on the earth. One who is rebellious sees knowledge in ignorance and virtues in vices."[1] Moreover, the father was director of family worship; and the ancient lords of the Nile valley, like the chieftains of Semitic tribes, like Abraham and Melchisedech, were at once princes and priests. Nor was the husband in habitual and legal subjection to the wife. True, the position of women, from the earliest times that we can see, was a position of

[1] Cited by C. de Ribbe, *La vie domestique*, 3d ed. 1878, vol. ii. pp. 91, 92; cf. p. 66 *seq.*

honour. She is drawn sitting on a seat as lofty as her husband's, or on the same seat.[1] She is styled the mistress of the house. She had rights of succession to the throne. But to be a loved and honoured companion, and to rule the house within, is a position for a wife quite distinct from that of later Egypt, where she was the legal superior of her husband, and was the external ruler and representative of the house before strangers. The Egyptian queens rendered a tacit homage to the greater fitness of men to rule by putting on an artificial beard. And the following passage from the old book already cited shows plainly that the husband and not the wife is the head of the house. "If you are wise, let your house be well provided; love your wife and do not wrangle with her, but give her victuals to eat and ornaments to deck herself withal. Let her have perfumes and make her happy as long as you live; she is a possession that should be worthy of its owner. Be not rough and rude."[2] Such counsels in later times would have been strangely superfluous and ridiculous.

[1] She appears "surrounded by the crowd of servants of all ranks, among whom the humble concubines of the master are sometimes mentioned. These latter make no pretensions to rival their mistress, and humbly rest contented with their inferior position" (E. Révillout, *Droit égyptien*, p. 219).

[2] This second citation I take from F. Lenormant, *Histoire ancienne de l'Orient*, 9th ed., 1882, t. ii. p. 89. The treatise is by an aged member of royal family, and is eminently unsacerdotal; indeed, setting forth a sort of *morale indépendante*, or school-board ethics, like what is now in vogue on both sides of the English Channel.

XI.—The Mongol Nomads.

§ 81. From remote antiquity the vast upland plains of Central Asia have been inhabited by nomad tribes, living not in houses but in tents or waggons, and supported not by agriculture, nor again by hunting or fishing, but by the produce of their flocks and herds. The following account of their family life applies primarily to the Mongols as they were observed by the Russian traveller Timkowski towards the beginning, and by the Abbé Huc towards the middle of this century; but much of it is equally applicable to the other nomadic races of the continent.[1] The essentials of nomad life, remember, are that the dwellings are movable and often moved, that all immovables, the pastures and wells, are owned not by private individuals or families, but by the community (tribe or clan), and that the main occupation and support is afforded by live stock.

[1] See G. Timkowski, *Travels through Mongolia*, English ed., 1827, and Hazlitt's translation of Huc's *Travels in Tartary;* also Le Play, *L'organisation du travail*, § 64, *L'organisation de la famille*, § 4, *Les ouvriers européens*, t. ii. ch. i. (on the Bashkirs). The Kirghese are well described by a correspondent in *The Times*, 19th August 1884. Some information is to be got from N. Prejevalsky, *Mongolia*, translated by Morgan, London 1876, especially from the annotations of Col. Yule. But the Russian author himself, excellent in his observation of *things*, and gifted with physical science and the geographical sense, in both of which the Abbé Huc was sadly deficient, is yet wholly incompetent to observe *persons*, neither knowing the native languages, nor raised above the level of those half-cultured travellers who rail and wonder, instead of examining and appreciating.

The Mongols marry very young, and the whole matter is settled by their parents, the young people perhaps never having met before. So there is no regular courting as among the modern English and Burmese and ancient Hindus. But in taking a second wife, either in place of the first or in addition to her, the man can choose for himself. Still, even then, if I am not mistaken, he addresses himself not to the girl but to her parents or guardians, and generally the suit is first preferred through strangers. First cousins may marry, and two sisters successively, but there is a prohibition of intermarriage between persons born under certain particular signs of the zodiac.

§ 82. The payment of bride-money to the bride's parents is the chief manner in which property is affected by marriage. How natural the payment of such bride-money is, where society is simple and wealth and poverty little distinguished, and how unscientific it is to call the transaction a sale of the girl, has already been explained (*supra*, § 33). The property to be transferred to the bride's family as compensation for losing her, is made up of such objects as horses, oxen, sheep, pounds of butter, or the imported luxuries of spirits and wheat flour. But the burden that might weigh heavily on the bridegroom's family is lightened by the generosity of the wedding guests. All the relatives and neighbours come and bring presents of eatables and animals; folds are

constructed all ready to receive the animals, and at the weddings of the richer Mongols are filled with great herds of oxen, horses, and sheep. The father of the bridegroom may thus be fully indemnified for the bride-money. But, in spite of Huc, I doubt whether this often happens, and I suspect that the presents received from the wedding guests habitually cover only a small portion of the expenditure. The amount of the bride-money can be judged of from the statement of Timkowski that among the common people it seldom reaches 400 head of animals,[1] and that payment is often spread over some time, even as much as six or seven years. So bride-money is no light matter.

§ 83. On the other hand, the parents of the bride have to give her a trousseau that is almost large enough to be called a dowry. They must provide her a new tent furnished with all that is needful, and every article of dress, and a saddled horse; moreover, some live stock, which among the rich may number as many as 100 head.[2]

Besides what the bride brings with her, the bridegroom receives from his own father a separate tent and some cattle, and is given the title of *gerté* or housekeeper. But if I am not mistaken he continues

[1] Among the Kirghese the bride-money is called *kalim*, and consists of from 40 to 120 sheep, or from 9 to 47 head of larger cattle.

[2] Among the Bashkirs, the bride brings some animals, furniture, and garments, and among the Kirghese some animals and a tent.

to live in the same district as his father, and even, I think, in the same inclosure, and also continues in his obedience and subordination to him, while his young wife shows great reverence to her father-in-law, and observes towards him a rigid etiquette in the interests of morality. For as marriages are so early, the father-in-law may, as often as not, be under forty years of age.

Naturally the deficiency of pasturage may compel families to separate even in the lifetime of the father; but this we may take to be exceptional.

§ 84. Polygamy is allowed, but the first wife is always the mistress of the household and the most honoured; the other wives owe her obedience and respect, and themselves are entitled "little spouses." Since so many of the Mongol men become celibate Buddhist monks, perhaps as many as one-third of the adult male population, there is a disproportion of the sexes, and it has been suggested that polygamy acts as a check on licentiousness, as otherwise a number of young women would be unable to find husbands.

Divorce is frequent, requires nothing on the part of the husband but the exercise of his will, and by no means brings any trouble to him on the part of the wife's family, to whom he sends her back with a saddled horse and one best garment. For although, with this deduction, he keeps all her trousseau, still

even pecuniarily he is the loser: women there are not a burden to be supported, but props and pillars of the house; and the husband who puts away his wife will have spent—and this is a great practical check to divorce—all the bride-money in vain. If the wife leave her husband, her parents are supposed to send her back three times. After a fourth desertion, the husband is entitled on divorcing her to a certain compensation, the exact nature of which I cannot ascertain; but I think that he only gets back a small fraction of the bride-money.

But though a Mongol woman can neither choose her husband, nor secure her being his only or his permanent wife, and though she is, as the Roman law would say, in perpetual tutelage, still she is by no means a secluded household drudge. She has an active and masculine demeanour, comes and goes at her pleasure, rides out on horseback, and visits her female friends from tent to tent. True she is the great worker of the household, but rather as an active mistress than as a driven servant. The men live on horseback, and do little else but drive the flocks and herds to pasture. When off their horses they pass the time mostly in sleeping, smoking, and drinking tea. It is the women who do the dairy work, draw water, collect fuel (invariably dried dung), prepare the meals, do the tanning of skins, the fulling of cloth, the making of clothes, including hats and leather boots, and embroider excellently into the bargain.

§ 85. The moral code of the Mongol nomads may be somewhat lax, admitting polygamy and easy divorce, but it seems by no means ill observed. Their dress is modest; they sleep in their clothes. Every tent is divided into two compartments, one for the women, the other for the men; and grave offences against morals, at any rate among the laity, are rare.[1] The adulterer has to pay forty-five head of cattle, and the guilty woman is delivered up to her husband, who may put her to death; if he spare her, then the cattle are paid to the chieftain instead of to him. Their honesty and simplicity expose them to perpetual cheating at the hands of the unscrupulous traders of China; they are frank and hospitable, and full of politeness, resembling in this the Beduin Arabs. Their education is not unsuited to their mode of life: book-learning, science, and art are indeed scarce to be found except in the monasteries; but all who are to be laymen are taught to ride perfectly, wrestle, shoot, and moreover to have much empirical knowledge of the structure and diseases of animals, besides a wonderful skill in managing them. And from what I have said of the employments of women, it is plain that there is much that girls have to learn. Moreover, there is an unwritten literature sung by the numerous and popular wandering minstrels, who hand

[1] The morals of the celibate lamas *may* be bad, but some better testimony against them is required than the prejudiced and hearsay assertions of Prejevalsky.

down the national traditions and glories, are always welcomed and honoured, often stay several days in one tent, and are given provisions (such as cheese and tea) when they go. For they seldom possess more than their musical instruments and their garments.

§ 86. Further, the Mongols are deeply religious, pay the greatest honour to the Buddhist monks (*lamas*), spend immense sums on religious purposes, shrink from no hardships in making pilgrimages, have a small altar and an image of Buddha in every tent, and are zealous in prayer. I do not say that the credulity of these simple shepherds is not cruelly taken advantage of, and that the lamas of Tibet do not work upon their simplicity in matters of religion, much the same lucrative manner as the Chinese traders do in matters of trade. But this does not lessen the merit of their honesty and their piety.

In their treatment of the dead the Mongols vary, but I think there is no ancestor worship, properly speaking, except where they have been transformed into Chinese. Among the true nomadic tribes the entire funeral ceremony is to carry the dead to the top of hills or the bottom of ravines, there to be devoured by birds and beasts of prey. But there is a wide-spread belief in the benefit of burial in certain spots, especially the precincts of a certain monastery; and many Mongols carry thither at great cost the bones of their parents (after burning the bodies) to

perform this act of filial piety. The conversion of the Mongols to Buddhism towards the end of the sixteenth century put an end, I think, to the ancient practice of slaughtering camels and horses, and burying them with the dead man, and in the case of chieftains, even slaughtering slave children, who were to be their escort in the next world.[1]

§ 87. The power of the father over his children is great, their obedience is exemplary; according to his will they remain laymen or become monks (*lamas*) from their earliest age. By a custom indeed which perhaps cannot be overruled, the eldest son remains a layman. But every father thinks it a duty to bring up one of his sons to be a monk. A childless Mongol may adopt the legitimate children of others. All the goods of the family (unless perhaps some articles of personal adornment) are held in common under the rule of the father, who is said to be passionately fond of his children. He assigns to each their office, receives the bride-money on giving his daughters in marriage, pays the bride-money on the marriage of his sons, arranges the services and pays the dues that are the right of his chieftain. Some of these contributions are regular, some depend upon particular occasions, such as the marriage, burial, or distant journey of the chieftain. And the rich, as in most other

[1] See H. H. Howorth, *History of the Mongols*, London 1876, pp. 422–423, 426. Huc speaks of the practice as though it still continued.

societies, have comparatively less to pay and to do.[1] But though there are inequalities of wealth, the inequality is only in movables; more camels and horses, more sheep and goats, more yaks and oxen, more provisions, garments, ornaments, and better tents than your neighbour, but not more land, for that is all common. Nor is power or wealth divorced from responsibility; for in years of scarcity the chieftains, the lamas, and the rich have to provide for the poorer tribesmen. And there is equality in their employments, their recreation, and their mode of life. The highest and lowest will smoke and drink tea together, as Huc remarks, and their children "romp and wrestle together without distinction; the stronger throws the weaker; that is all" (i. p. 171).

§ 88. Finally, there is equality from the sense of a common origin. "The meanest and most ignorant of the Tartars," says Gibbon, "preserve with conscious pride the inestimable treasure of their genealogy, and, whatever distinctions of rank may have been introduced by the unequal distribution of pastoral wealth,

[1] The chieftain has the right annually to take one sheep from the owner of five or more oxen, one sheep from the owner of twenty sheep, two from the owner of forty sheep, but never more than two sheep. This is somewhat on the poll-tax principle. Further, on the occasion of journeys and marriages, he may claim from every ten tents, one ox and a cart drawn by an ox or camel; from three cows or four, a pail of milk; from five cows or more, a pitcher of spirits distilled from milk; from a hundred sheep and more, a piece of felt (Timkowski *Travels in Mongolia*, ii. p. 339).

they mutually respect themselves and each other as the descendants of the first founder of the tribe. The custom, which still prevails, of adopting the bravest and most faithful of the captives, may countenance the very probable suspicion that this extensive consanguinity is, in a great measure, legal and fictitious. But the useful prejudice, which has obtained the sanction of time and opinion, produces the effects of truth; the haughty barbarians yield a cheerful and voluntary obedience to the head of their blood, and their chief, or *mursa*, as the representative of their great father, exercises the authority of a judge in peace, and of a leader in war."[1]

Thus the rule of the father within the tent, and of the chieftain without, and the great respect paid by all to their elders, especially to old men, secure peace and justice in a society where every man is mounted and armed. No distinction is made between civil and criminal law, and there is no need of it. The family of the injured party prosecute an offender and receive reparation. Among the Kirghese, and probably it is much the same among the Mongols, trials are oral and public, judges are chosen by the litigants, frequent appeal is made to conscience, great stress is laid on

[1] *Decline and Fall*, chap. xxvi., where, before narrating the inroads of the Huns, he describes in his masterly way the manners of the pastoral nations. Timkowski confirms the attachment and fidelity of the Mongols to their chiefs and their care in keeping genealogical registers; they never lose sight of *yasou*, *i.e.*, the degree of kinship (*Travels in Mongolia*, ii. pp. 303, 329).

oaths, while the punishments assigned resemble a scale of fines ranging from a coat of stuff or fur for a trifling offence, to a fine of 50 camels, or 100 horses, or 1000 rams, for the murder of a man.

§ 89. On the death of the father the brothers may or may not keep together. If they do, we can scarcely call them a joint family, for the term should be taken to imply joint homestead and land, and they have neither. And the nature of their property makes partition as easy as possible without the least depreciation, unlike a farm or a commercial business. And partition need not imply separation; they may continue to live in the same encampment though not in the same inclosure, and their flocks may feed together on the same pastures. The absence of female property and of female succession, still further simplifies the distribution of property; and among the Mongols there is another simplification, that often all the sons but the eldest have become monks. It may be added that the political authority of the chieftains descends to their eldest son only; and the younger sons (as far as they do not become monks) form a poor nobility.

The honour given to age and to parents secures a position for the aged widow; and the worst that can befall the children of an unfortunate or foolish father is to become servants, where there is little to distinguish master and servant, in the houses of their kindred.

XII.—Doctrine of Primitive Savagery.

§ 90. Having reached the end of my illustrations of Fore-Christian families, I may be asked why I have passed over the family life of savages, or, as some would say, the state of savagery antecedent to the family. I answer that I am not concerned with theoretical states and with fancies, but with facts, of which this book is a collection; and that out of the numberless array of facts concerning family life, I have had, like every one else who deals with this subject, to make a selection, and have selected what appeared instructive for forming a clear and sound judgment about right and wrong in this department of Ethics. But even if we could fix on a precise and reasonable meaning for the word savage, we should not be able to speak of the "savage family" any more than now we can speak of the civilised family.[1] For in neither case would there be any

[1] Of course the word savage might be taken to mean absence of family (or any decent family) life; but this would not be a reasonable meaning; for then various half-naked tribes with a minimum of external appliances, and whom it would be held absurd in common parlance not to call savages, such as the Andaman Islanders, would be excluded. Professor Max Müller, in an instructive paper in *The Nineteenth Century*, January 1885, has well asked anthropologists what they mean by a savage. For my part I doubt if we can do more with profit than make the one distinction of civilised and uncivilised man, according as they have or have not all the seven following characteristics—(1.) towns; (2.) an upper class; (3.) an organised government deserving the name of a state; (4.) a certain measure of skill in the industrial

characteristic that would distinguish the savage or the civilised family from all others. And then, as no typical savage family can be found, it seems to me of no profit for Ethics to collect descriptions of family life, whether good or bad, in abnormal conditions. Some of the outcasts of humanity, dwellers in woods or by the frozen sea, with few arts, and in scanty numbers, live a simple, peaceful, chaste, and pious life; others are sunk in horrible abominations; and both may be studied with profit for the purposes of ethnology and philology. But the political or economical writer has to do with the bulk of humanity, not with waifs and strays; and has to attend to societies important for their numbers, or power, or intelligence, or long duration. And truly, if a little of the attention given of late years to Australians and Hottentots, to Fuegians and Eskimos, had been given to the political and domestic life of the great races of Europe and Asia, political and economical science among us would have gained, and no other science, I think, have been the worse. The reason indeed for this wonderful interest in "savages" is well known. Certain theories of physical science and philosophy

arts, in (5.) the decorative arts, in (6.) science and history; and lastly, (7.) a written literature. In a former volume I explained this view of civilisation, and how religion, morality happiness, and well-being were quite distinct from it (*Groundwork of Economics*, § 312). If we liked we might call societies that had only some of the seven characteristics semi-civilised, and those with none, uncivilised. An analogous view of civilisation has recently been given by the Duke of Argyll (*The Unity of Nature*, 1884, pp. 381–384).

required, or thought they required, for their support the doctrine that primitive man had no family life, that there was promiscuous union of the sexes, that paternity was consequently uncertain, and that gradually the separate family, in which every man knows his father, was evolved out of this primitive promiscuity. On the details of the process there is disagreement, but the theory on the original state is what I have said, and the sexual relations of modern savages that at all resemble that state have been diligently collected to back up the theory, as well as all indications that history or archæology can show that in any way seem to indicate the existence of such a state in the past.

§ 91. The manner in which this theory of original promiscuity has been upheld might dispense us from further examining it, as not being founded on evidence, but on assertion. Still, a few words may not be out of place, as so many take this theory for gospel truth.

There is one argument, and there is no other I think, that has a respectable appearance of weight. In many societies (we have seen an example in Egypt, *supra*, § 76) kinship is traced and property claimed not through the father but through the mother; and this custom, it is argued, comes from the existence either of polyandry, or of wholly unregulated unions, since in both cases kinship can be traced only through the mother, because the father is uncertain; and

though the custom may co-exist with regular marriage, it is then a survival of the time when no such institution as marriage was known.

But this argument rests on the fallacy that because *x may* be the cause of *y*, it *is* the cause. No doubt among the possible causes of tracing kinship through females only, we can reckon promiscuity; and I do not say that in some particular cases, as among some of the tribes of Southern India, or negroes of Guinea, this possible cause may not have been the actual one. But then there are a number of other possible causes, and we commit a gross blunder in reasoning if we take any one cause, and say without further proof that any particular case was due to this particular cause.

§ 92. Let us look at some of those other causes I have alluded to. (*a.*) One of them is clearly explained in the following citation.[1] "That the mother should give her name to descendants" may be the result of a state of society in which she is "*the most permanent element in the family.* There are many tribes recognising the institution of marriage in some form or other, and yet very familiar with the practice of divorce. In a state of nature the divorced father has little inducement to assert his *potestas* by retaining the guardianship of infants, whose maintenance, according

[1] From Edith Simcox, in an excellent review of Sir H. Maine's *Early Law and Custom* in *The Academy*, 14th April 1883.

to the primitive division of labour, naturally falls upon the mother; the mother, with her children, naturally marries again, let us say a warrior, who is killed in the next tribal fray; then a hunter, who comes to the like untimely end; and so on, perhaps, till the family bearing her name attains quite patriarchal proportions. Even in such a comparatively civilised community as Iceland we find women of unimpeachable reputation married, widowed, divorced, and married again at a very surprising rate and frequency. This sort of *Mütter-recht* only tends to prevail among good-natured, rather easy-going races, where women are kindly used; and these races are not the slowest to settle and attain a certain degree of civilisation. With peaceable settlement, life becomes more secure, and family relations more continuous, but the old habit of tracing kinship through the mother will survive long after its *raison d'être* has vanished."

§ 93. (*b.*) Another reason for female rather than male succession is, that by making the eldest daughter the heiress the household gets additional strength, and gets it earlier; that is, the daughter heiress when she is say eighteen is married, and brings into the home her husband, aged say twenty-six, whereas in male succession the son and heir (assuming the same ages for marriage) would not bring a helper into the house till eight years later, and then the helper would be a woman, not a man. Moreover, the children of the

marriage would be ready to help or defend the household eight years sooner in the first case than in the second. In small and uncivilised societies, where so much depends on strong arms, this reason may be very powerful; and it exists in civilised societies to this day.[1]

(*c.*) The particular circumstances of economical life may make female succession desirable, such as exist or existed among the Basques, where the men of that hard and rugged land are frequently absent at sea and in domestic or military service at a distance; and thus, as the management of property must to a great extent devolve on women, there is an advantage in the managers rather than the absentees having the ownership, the authority, and the responsibility. (Le Play, *l. c.*) Similarly, among the Tawàrek or Berbers of the Sahara, where women are men's equals, and most property is in their hands, and the successor to a noble's feudal rights is the eldest son of his eldest sister, the origin of these customs may be due to the nature of the country, interminable deserts with scanty

[1] Le Play, *L'organisation de la famille*, 2d ed., sec. 9, notices this motive, and how among those of the Basques whose customary law gives the property to the eldest child, whether son or daughter, it is looked on as a special favour of Heaven if the first-born is a daughter. In a high Alpine valley, where there is no custom of female succession, M. Claudio Jannet met a peasant who had established his daughter as heiress instead of his son, precisely to have sooner, as he said, a strong workman to help him. In this valley, just as in the Pyrenees where the Basques dwell, the struggle with the forces of nature is very severe (*Letter to the author*).

population; and over all this vast space the nobles have to keep the civil and military police, conducting caravans, collecting tribute from the oases under their protection, negotiating peace, and making war. That their goods should be mostly held and managed by the women left behind, is not surprising.[1]

§ 94. (*d.*) Where great stress is laid on purity of descent, the fear of this being vitiated by adultery may account for tracing kinship through females, by which alone you can make sure of the ancestral blood remaining in the home; and such a motive does not the least imply that adultery is common, much less that paternity is unknown. Superstition may give great additional force to this motive, where there is a vivid belief in genii (*djinn*), as among the Tawârek. For these supernatural beings may make paternity uncertain.

(*e.*) By the husband being absorbed in the wife's family, instead of the reverse, the painful separation of mother and daughter, and the not seldom painful

[1] See the noteworthy book of Henri Duveyrier, *Exploration du Sahara. Les Touâregs du Nord.* Paris, 1864. These interesting people are only nominal Mohammedans, and have in particular preserved the old chivalrous honour paid to women, and monogamy, in utter contrast to the modern Arabs. The legend they tell of the origin of the rule of succession to the hereditary and inalienable goods and honours of the nobles (the acquired goods of the nobles and all those of commoners are divided equally among all the children)—this legend, as given by Duveyrier (p. 397–400), shows no sign of polyandry or even any frequent unfaithfulness of wives.

proximity of mother-in-law and daughter-in-law, are avoided; and in times when joint families are universal can hardly be avoided in any other way.

(*f.*) The mother, by the pains of child-birth, by her office of suckling, by her greater affection for her infant, by her constant presence in the house, by her exclusive care of the child—material and moral—during the early years of its life, has towards it a far closer and more visible relation than the father, and uterine relationship is the most striking to the senses. It is therefore quite natural (putting aside revelation, or assuming it had been forgotten) for the children to belong primarily to the mother or her family, and for kinship to be traced through her; and the opposite practices, to which we have been so accustomed, require at least as much accounting for as those other practices at which we have been so astonished.

§ 95. (*g.*) Political grounds also may have been a reason for succession through the mother instead of the father; namely, when kings or nobles gave their daughters in marriage to those below them in rank, the conditions or consequences of these unequal marriages may have been that the wife became the head of the house and the fountain of descent instead of the father. We know that the daughters and granddaughters of the pyramid Pharaohs were wedded to architects, scribes, and simple country gentlemen; and this, it has been suggested, may have been the

origin of the Egyptian gyneocracy that I have already described (*supra*, §§ 76, 77, 79); for the law that regulated special cases might easily become the fashion for all.[1] We know also that among the Rajputs the royal house of Oudeypore, when it was obliged, in order to gain the support of some other clans, to grant them the *connubium*, the longed-for privilege of intermarriage with the princesses of Oudeypore, stipulated at the same time that the sons of these princesses should always succeed their father, to the exclusion of children of any other wife, and in spite of any claim of primogeniture these other children might make (Note to French translation of Maine, *Ancien droit et coutume primitive*, p. 360).[2]

[1] M. Révillout thinks the omnipotence of women in later Egypt was due to the absolute freedom of contract introduced by King Bocchoris, and which enabled the women, who had always held a high place, and who were credited with exceptionally attractive and winning manners, to secure gradually from their enslaved admirers, as time went on, more and more favourable conditions in the marriage contract, till they got, as we have seen, the complete supremacy (*Droit Egyptien*, pp. 217–218). Whether or not we accept this explanation as sufficient, we at least know, that the Egyptian gyneocracy and succession through females was not "original," being preceded by a different family law, more like that of the early Jews, and utterly without promiscuity, polyandry, or communal marriage (*supra*, § 80).

[2] The Chinese statecraft that binds the Mongol chiefs to China by giving them imperial princesses—the daughters, sisters, or nieces of the emperor—in marriage, and then pensioning them and their wives (G. Timkowski, *Travels through Mongolia*, ii. pp. 322–328), has not indeed, as far as I am aware, resulted in making the chiefs trace their descent through females, but might easily do so, if the ascendency of the Chinese grew more, and the native spirit and pride of the Mongols grew less.

(*h*) Moreover, if the practice of tracing relationship through females had arisen through any of the aforenamed causes, it might spread—and indeed would be likely to spread—to other societies, even though none of those causes were operative, simply through the habit of political imitation, the potency of which has been so well illustrated by Sir H. Maine (*Early Law and Custom*, pp. 284–285), that it is needless to add anything to what he has said.

§ 96. The main "proof" of primitive promiscuity turns out therefore to be no proof, not even a presumption. Nay, I shall be able to show that there is a presumption the other way, and that where we find succession through females, we may exclude promiscuity from the likely causes, unless we have some special reason for thinking otherwise in the special case.

Let us turn to some of the other grounds of the theory, and see if they are any more solid. Compulsory marriage has been declared a "survival" of a time when the relation of the sexes was a communal and not a private matter. But the history of compulsory marriage (as well as of compulsory celibacy) shows us in a number of known cases particular reasons for the compulsion, that have nothing to do with the alleged reminiscences of primitive times. Religious reasons, lest a family die out, the domestic worship be extinguished, and the family gods be offended, account for some cases; political reasons

for many others, that the state may have abundant soldiers, that infant settlements may grow in strength, that the commune may hold its own against the local lord or the central government. We need not go back to remote and obscure antiquity, but can point to examples in comparatively recent times. Thus in the thirteenth century, among the vassals of the Teutonic knights, in perpetual struggle with the surrounding pagans, it was the rule that the loss of men in battle should be immediately followed and repaired by compulsory marriages. Still more recently the same principle was applied by the French Government in Canada. "The home country sent out cargoes of young girls, and in the fortnight after their arrival every unmarried man had to choose a wife or else be forbidden to trade in timber. Any father of a family settled in the colony, if he had not given his sons in marriage by the time they were twenty, and his daughters by the time they were sixteen, was summoned, and if he had no excuse was ordered to pay a fine that was renewable every six months."[1]

[1] This citation is from a note added by the French translator of Sir H. Maine's *Early Law and Custom* at the end of chap. vii., inserted with the author's approval. The accomplished translator, from whose notes I have borrowed freely, goes on to remark: "Si l'on transporte un pareil régime dans un passé lointain,—et rien ne s'y oppose du moment qu'il ne s'agit que d'un acte d'omnipotence communale parfaitement conforme aux idées primitives,—on comprendra qu'il soit difficile de se montrer trop affirmative sur la généalogie des coutumes matrimoniales, et qu'on doive encore moins se hâter d'en conclure au droit que le sexe mâle pouvait avoir à l'origine sur toutes les femmes de la tribu."

§ 97. The customs of the Levirate and the Niyoga already described (*supra*, §§ 13 and 61) have been supposed to be a survival of polyandry. But there are known and adequate causes for these customs which should restrain us from guesswork. Among the Jews the desire of being connected genealogically with the future Messias, and among the Hindus (Maine, *Early Law and Custom*, pp. 106–108) the desire of real or fictitious male offspring to secure a man's welfare beyond the grave, are the grounds for these customs; and there are analogous grounds for analogous customs elsewhere.

The same logical failing of arbitrarily assuming possible (or what are thought possible) causes to be the actual ones, instead of observing the actual ones, is seen in the following argument. Among many societies, uncivilised especially, the names for relatives are not according to degrees of kinship as we reckon them, but according to the generation; for example, a man calls his father and his uncles all by a common name, his parents; and his brothers and male cousins of the same generation all his brothers; and again the generation below (his sons, nephews and cousins in the same generation as his sons) by some common name. A familiar instance occurs in the Gospels where our Lord's second cousins are called his brothers; and the generation names of the Chinese already described (*supra*, § 7) are of a somewhat similar character. Now this method of speak-

ing has been taken as a "survival" of a time when groups of men were married in common to groups of women. But this is an arbitrary hypothesis, when much more obvious and reasonable explanations of this nomenclature are forthcoming. Sir H. Maine (*Ibid.* 289–290) has suggested the difficulty of comprehending a large body of complex relationships. For in fact, if we take account of the difference of sex, there are some 27,000 possible forms of consanguinity or affinity, without counting degrees more remote than the fifth. Among uncivilised people the naming by generations instead of by degrees may be simply their best attempt to meet the difficulty. And it seems to me that in all cases where the joint family prevails (and how widely it has prevailed can be seen from the examples I have given), this mode of speech may at any time arise quite naturally, as for work and play and deliberation the members are precisely grouped in generations and not according to kinship. China, where this mode of speech in some degree prevails, is precisely the classical land of the joint family.

§ 98. Idle again is the appeal to instances of polyandry as being a survival of what was once universal. Even supposing that polyandry could spring from original promiscuity, there are other causes far more reasonable, and there are known instances of polyandry having arisen from some of these other causes.

How frequently there has been a deficiency of women in particular societies through female infanticide,[1] through women being carried off in war, through migration of men without the incumbrance of female companions, and how easy is the growth of polyandry under such circumstances and its sanction and explanation by law and religion, has been well pointed out by Sir H. Maine (*Ibid.*, 210–215). And it is what Christians would expect, who believe in the fallen nature of man, who read in Scripture how all flesh had corrupted its way upon the earth (*Gen.* vi. 12), who know from history how our evil passions have again and again been the authors of evil civil laws, and how many and appalling are the instances of downward progress and growth in iniquity.[2] And they are in no way surprised at seeing religion the minister and gilder of iniquity; for they believe in the existence of powers of darkness, who have driven men to even worse things than community of wives. So it is only

[1] Female infanticide may in its turn be due to various causes, such as the fear of mésalliances, the dislike to marriage expenditure where custom makes it expensive and also forbids you to keep your daughters unmarried (so among the Rajputs), the fear of an evil fate for your daughter if you are poor, the disinclination to rear one who cannot be of use to you in performing rites after you are dead (so in China), the desire in a warlike society to have strong arms to fight for you, not weak ones that have to be defended (so probably in Central Asia).

[2] See Mivart, *Lessons from Nature*, 147–156, and the Duke of Argyll, *Unity of Nature*, especially chap. x. There is indeed no question of the fact and frequency of decline; and it is the only rational explanation of the many instances of depraved societies. For to suppose original depravity involves, as we shall see, a physiological contradiction.

what we might have expected when we are told, that among the low castes of Southern India there is an intimate connection between polyandry and devil-worship (Cornish in Madras Census Reports, cited by J. H. Nelson, *View of the Hindu Law*, pp. 144–145).

§ 99. Then again that form of polyandry seen in Ceylon and among the ancient Spartans (*supra*, § 46), where several brothers live together in a joint family, and have one wife between them, is a melancholy but natural abuse of the joint family in situations where there is no healthy outlet for increasing numbers, but danger of partition or of beggary from a numerous family. Here polyandry is a device to preserve the estate undivided, and is no more a relic of primitive times than is the artificial sterility practised for the same end by the modern After-Christian French peasants. Moreover, polyandry is known to have arisen in the modern native Indian army (Maine, *Early Law and Custom*, p. 124); and among the Venetian aristocracy of the early eighteenth century it is said that brothers sometimes had one wife between them; which can be accounted for by a system of taxation that made each separate marriage a special source of expense (so too in ancient Sparta), and by the highest offices, notably that of ambassador, being practically open only to the unmarried, through dread of female influence in politics; and if an ambassador was chosen by exception from among the married, he was

not allowed to take his wife with him (Maine, *Ibid.*, note of author and translator at end of chap. iv).[1]

§ 100. And not only are the arguments untenable that are advanced in favour of primitive promiscuity, but its advocates cannot answer the objections to their theory. The manners and customs they perversely interpret as a survival of that imaginary state are not found, for example, among the Aryan races;[2] and although it would not matter if they were, nor would there be even a presumption of primitive promiscuity if it could really be shown that a so-called matriarchal stage of society had everywhere preceded the so-called patriarchal stage; still, as our opponents have chosen to make this *Mutterrecht* their chief argument, they are out of court till they can show that this at least was certainly or probably universal.

Moreover, if the original and universal state was what we are asked to believe, we may well question

[1] In Ceylon, according to Sir J. E. Tennent (*Ceylon*, ii. p. 430, 5th edit.), among the causes assigned for polyandry was this, that many men being absent for such long periods at the feudal courts, there was need of interested parties being left at home, and thus their brothers or nearest relatives were adopted as partners of their wives and fortunes. Be this as it may, the desire to keep together the inheritance is recognised as a motive for the practice at present (*Ibid.*), and similarly among some of the high castes in India (J. H. Nelson, *Study of the Hindu Law*, p. 103).

[2] I know well that this is denied by "anthropologists." But denial is one thing, good ground for it is another; and since the question is eminently one of juridical archæology and philology, they must begin by convincing scholars like Professors Maine and Max Müller, before they can properly claim a hearing from the general public.

the possibility of any change to a higher state. This is quite a different matter from the case of societies who, according to our view, have lapsed into polyandry or other abominations from any of the causes already given (*supra*, §§ 98, 99). The particular cause, such as the fewness of women or the danger to the family property, being removed, and the intelligence of a higher life being present (either from a tradition of the past, or from the present voice of conscience, or from the example of races that have not fallen), a proper family life may be restored. But restoration is one thing, a new development is another. And are we to believe that our ancestors, supposing they ever were as we are told they were, namely, without knowledge of a better past, without sense of right and wrong, without example and teaching of others,—are we to believe that they raised themselves out of an infra-bestial state, though it is so hard for the licentious races of uncivilised men to raise themselves in our own time with all the aid of devoted missionaries, and though there is no known instance of their raising themselves unaided? It should be too much even for anti-Christian credulity.[1]

§ 101. Finally, if by any marvel we got over the

[1] Sir H. Maine, *Early Law and Custom*, pp. 202–203, has noted another difficulty: how the wide-spread opinion (of the classical Greeks, for example, and ancient Egyptians, and Indians of Brazil) could, without regular marriage, ever have arisen, namely, that the child descends exclusively from the male parent, and thus is not of kin to its mother.

difficulty of men ever rising out of the alleged state of promiscuity, we should only find ourselves confronted by a difficulty still more insurmountable. The state supposed is suicidal, and instead of allowing the expansion of the human race, would have produced infertility and probably disease, and at best only allowed the existing numbers to maintain, under the most favourable circumstances, a precarious existence. To suppose therefore that the whole human race for any considerable time were without regular marriage is physiologically inadmissible: they could never have survived it.[1]

The theory therefore of the horrid state of primitive man turns out to be as unsound as it is repulsive.

[1] There is also an *argumentum ad hominem* against those who derive us from the brutes and yet start us with promiscuity, that such a state is eminently not "brutal" in the strict sense, or natural, but anomalous and artificial, and a sinking below the apes. (*Cf. Unity of Nature*, pp. 367–370, 378 *seq.*) But I do not care to make any use of this argument, still less of the one on which Sir H. Maine lays great stress, namely, the difficulty of supposing sexual jealousy was in abeyance or absent for so long and so widely as the theory of promiscuity supposes (*Ibid.*, pp. 205–209, 216). His acute critic, Miss Edith Simcox, notices how he has been led astray by Darwin (*Academy*, 14th April 1883). And she delicately indicates that his own theory of primitive man is as much guesswork as the theories he criticises. In truth, if he really means that jealousy was "the force binding together and propelling the ancient social order," that the patriarchal family can be described as "sexual jealousy, indulged through power," and that human society began with such families (*Ibid.*, 205, 209, 216, 219), his brutal primitive man is not much more attractive than the licentious primitive man of Bachofen; and both, like the noble savage (*homme de la nature*) of Rousseau, are not the fruits of observation and reasoning, but mere creatures of the imagination.

So let us be on our guard once more (*vid. supra*, § 32) against all theories that go against or beyond the evidence; and remember that if some rash apologists have taken liberties with facts that seemed to them out of harmony with received doctrine, far greater liberties have been taken with far less excuse by men of science.

Part II.

THE CHRISTIAN FAMILY.

I.—Christian Doctrine on the Family.

§ 102. That nature is not evil in itself and has not to be destroyed by grace but to be renovated and raised, is one of the fundamental doctrines of the Christian religion. Domestic life, like all else, had to be renewed, as we are taught, in Christ; and besides this renewal by which Christianity gathered together all the good features of the family that were scattered through the world—all the good that came from the light of natural reason, the traditions of the past, the voice of conscience [1]—there was also something new. For the celibate life under vow and the married life of Christians were both, in seeming contradiction, exalted together, and held to be states in a supernatural order, receiving peculiar support and guidance from on high.

Something therefore must be said on celibacy, otherwise Christian marriage cannot be understood. A life of perpetual virginity dedicated to God is held to

[1] . . . natura rerum, memoria originum, conscientia generis humani. (Leo. XIII. Encycl. *Arcanum divinæ.*)

be a better life than one of marriage; but not because existence is evil and its propagation to be disapproved, or because marriage is a mere concession to human frailty, that worse evils may be averted; for Manichæism, and the milder error of Buddhism, are both radically opposed to Christian doctrine, which looks on marriage as a good thing and a holy state, and, as far as it is lawful to consider the ways of Divine Providence, the state to which the great mass of men have hitherto been called. Nevertheless religious celibacy is the state to which many are called, and is a nobler and better state, and the call higher; inasmuch as the lower parts of our nature are more completely conquered by the higher, and all the heroic works of Christian charity can be fulfilled unhindered, and an example of higher self-control makes it easier for the mass of men to keep the bonds of lawful marriage, and a body of men is provided less unworthy, than if they were married, to fulfil the awful duties of the Christian priesthood; and above all, since man has been created for a supernatural end and to be transformed into the likeness of God, there can be among the unmarried closer union with God, more complete imitation of the Incarnate Word, as their hearts are more undivided, their self-oblation more complete, they tread in the footsteps of a virginal Son of a virginal mother, and passing into a mystical region, they are, as it were, already in the celestial kingdom where they neither marry nor give

in marriage, their soul being bound by a chaste and everlasting union as the bride of the Lamb.[1]

§ 103. But marriage also is a holy state, and Christianity claims to have renewed its original sanctity and raised it to a new dignity. It follows from the Christian doctrines of original justice, the end of man, and the creation of the first woman from the flesh of the first man, that marriage was never simply a natural relation like the union of the beasts for the propagation of their species, but was a special work of God, and from the first a type of the Incarnation and marked with a sacred character.[2] Man and wife were to be to each other a mutual support, bound in the closest union of mind and heart, the two making but one flesh, the spiritual union preceding and ennobling the carnal union, and children being raised up with the primary end of giving God new worshippers. Nor were these ends of marriage removed by the Fall: only now the fresh use was added to it of being a means of averting licentiousness.

[1] See. Hettinger, *Apologie des Christenthums*, II., iii. p. 280 *seq.* (4th edit.); Döllinger, *Christenthum und Kirche*, pp. 370, 371; T. W. Allies, *Formation of Christendom*, Part I., lecture vi. But I doubt if these apologists sufficiently explain how the double character of the Christian dispensation applies, and applies so strikingly here. All that is good in the celibacy of Buddhism; all the yearnings of pagans for purer life expressed in their maxim, *casta placent superis*, and any good in any other celibacy either practised or wished for—all this was included in Christian celibacy, and then this excellence of nature was raised up higher, and received a supernatural crown.

[2] . . . quædam Incarnationis Verbi Dei adumbratio . . . inest . . . religiosum quiddam . . ingenitum (*Arcanum divinæ*).

Now this original marriage, in its three characters of sanctity, unity, and perpetuity, was brought back and raised up by Christ, who restored the dignity of man and perfected the Mosaic Law.[1] In addition to the ancient sanctity, every marriage between Christians was raised to be a Sacrament, that is, a mystery of religion and a channel of grace; nor could there be any marriage among Christians that was not a Sacrament. And in addition to the ancient unity and perpetuity, which were renewed by the absolute prohibition of polygamy, and by making absolutely indissoluble every marriage finally completed among Christians,[2] a new and mysterious bond between husband and wife was created. For their union was made an image of the union between Christ and His Church; and the love between that heavenly Bridegroom and His spouse was to be the pattern of the love on earth between the two partners in Christian marriage.

§ 104. These Christian doctrines on the married and celibate life have created a special position for women. To say simply that Christianity raised the position of women, is vague, and may cause a fighting about words. Rather let us say that due regard was paid to the physical and mental differences of men and women, and their proper place assigned to each. They

[1] . . . restitutor dignitatis humanæ legumque mosaicarum perfector (*Arcanum divinæ*).

[2] Matrimonium consummatum baptizatorum.

were to be distinct in dress, the women were to have their heads veiled in the churches; only men were admitted to the Christian priesthood, and women were not to preach, but to be silent and subject. Moreover, in domestic society the husband was to be the head and the wife obedient. But then the headship was to be like that of Christ over His Church: the obedience like that of the Church to Christ; and the relation was to be one of honour, not of servility.[1] The wife was to share the goods and honours of her husband, and if she belonged to him, he also belonged to her. *Una lex est de viris et fœminis.* The Christian religion made no compromise with vice: allowed no middle state between marriage and chastity: declared the man who broke this law to be as guilty and as fallen as the woman. And if the wife was not allowed to put away her husband or to have several partners at once, the same rule was inexorably applied to the husband. This is the Christian equality, not of power and authority, nor of mutual independence, like that of Classical Rome, of Burma, and of New England, but the equality of mutual dependence.[2]

[1] Vir est familiæ princeps, et caput mulieris; quæ tamen . . . subjiciatur . . . in morem non ancillæ, sed sociæ; ut scilicet obedientiæ prestitæ nec honestas, nec dignitas absit. In eo autem qui præest, et in hac quæ paret, cum imaginem uterque referant alter Christi, altera Ecclesiæ, divina caritas esto perpetua moderatrix officii (*Arcanum divinæ*).

[2] Apud nos, quod non licet feminis, aeque non licet viris; et eadem servitus pari conditione censetur. S. Hieronymus, *Epist.* 77 *ad Oceanum de morte Fabiolæ.*

It followed that in pardon also there was equality. If the prodigal son could return and receive honour, so also the daughter; and among the penitents who have received the glory of sanctity and worship, the Church reckons the fallen women, Afra, Pelagia, Mary of Egypt, Aglæ, and Thais (Hettinger, *Ibid.*, p. 292).

§ 105. Again, though woman was created after man, from man, and for man, and though she was the weaker vessel, and in herself, as woman, being passive and receptive rather than an active principle, was the image of God in a less peculiar and complete sense than the man; nevertheless, she was truly man, truly possessed human nature, was truly created in the image and likeness of God,[1] and was able by grace to rise as high as one of the stronger sex. Nay, in fact, among all created persons, a woman rose to a far greater height of sanctity and glory than any man, and is worshipped as the queen of angels and of men. The fall of Eve, as the theologians said, was repaired by Mary;[2] and women, the sex that was called fair, gained a nobler prerogative in being called in the very liturgy of the Church the devout sex. True, the

[1] *Cf.* M. J. Scheeben, *Handbuch der katholischen Dogmatik*, Book III., *n.* 365–367.

[2] Veni ergo, Eva, jam Maria, quæ nobis non solum virginitatis incentivum attulit, sed etiam Deum intulit. . . . Non de terra utique, sed de cœlo vas sibi hoc per quod descenderet Christus elegit, et sacravit templum pudoris . . . Egregia igitur Maria, quæ signum sacræ virginitatis extulit, et intemeratæ integritatis pium Christo vexillum erexit. S. Ambrosius, *De institutione virginis*, cap. 5.

normal position of women in the Christian community has not been to preach the Gospel, and, where need was, to witness to it with their blood. To these things they have indeed been called from time to time, like St. Agnes and the other virgin martyrs whose fame filled the early Church, or St. Catherine of Siena, the leader of Pontiffs and people, or St. Theresa, the channel of divine oracles. But the normal and characteristic Christian woman appears as a constant type under varying external circumstances, whether as a religious or a lay woman, from the cottage to the throne, alike in the days of Tertullian or of St. Ambrose, among the Teutonic invaders of the Roman Empire, in the Christian Middle Ages, in the age of St. Francis of Sales and S. Vincent of Paul, and among the Christians of our own day, ever the same, frequenting the churches, ministering to the necessities of the saints, serving the poor, tending the sick, visiting the prisons, instructing the ignorant, training little children, carrying on a hidden apostleship—weak women, but the servants of One who has chosen the weak things of this world to confound the strong.

§ 106. Christianity is a religion for all times and peoples; and thus, although in certain essentials the Christian family remains the same, there can be diversity in accidentals, and much external variety. The powers of the father over the family property, and over the persons and earnings of his children,

the relations of women to property, the powers and claims of brethren upon each other, rightly vary according to external circumstances. Hence, if the civil laws on the family were always founded on Christian principles, these laws would have to vary from time to time and place to place. Still greater variations must be expected in ecclesiastical discipline in the face of the great variety of laws, customs, sentiments, prejudices, superstitions, concerning marriage: requiring sometimes severity to prevent error and sin, sometimes relaxation to prevent unnecessary conflicts. Thus in the rules on prohibited degrees and other impediments to marriage, and on the ceremonies needed, the ecclesiastical authorities have gone on commanding and prohibiting according to the needs of the time;[1] and have never legislated on marriage without regarding the particular laws and manners of the people, being ready to follow the civil law in many things, provided only the sacred character of marriage, and the essential duties of husband and wife, parents and children, suffered no hindrance.[2] On these points, indeed, the Church has been inflexible. She has condemned the error that the family is a mere creature of the State, and that all the mutual duties and

[1] . . . de matrimoniis jubere vetare perseverarunt quod utile est, quod expedire temporibus censuissent (*Arcanum divinæ*).

[2] . . . Ecclesia . . . ad . . . indulgentiam. . . proclivis . . nihil unquam de matrimonium statuit, quin respectum habuerit ad statum communitatis, ad conditiones populorum: nec semel suarum ipsa legum præscripta, quoad potuit, mitigavit (*Ibid*).

rights of its members are derived from the civil law.[1] And she has fought against a number of civil laws from her earliest existence to this day: marriages that the Romans approved, she declared adulterous; marriages they forbade, those, namely, between a free-born woman and another's slave, she recognised; marriages they held null, as those between slaves or between a senator and a freed-woman, she approved.[2] She would not tolerate compulsory marriage or compulsory celibacy; she has not allowed that excess of parental power that prevents indefinitely the marriage of sons and daughters; on the other hand, she will not suffer parents to be stripped of the right of educating their children; nor has she ceased to wage war against concubinage and divorce. And in our own day the Christians must again repeat the formula of St. Jerome: "Aliæ sunt leges Cæsarum, aliæ Christi: aliud Papinianus, aliud Paulus noster præcipit" (Ep. 77 *ad Oceanum de morte Fabiolæ*).

§ 107. But in many other matters there cannot be said to be a definite Christian rule. Take, for example, the laws of women's property. There is a great variety of usage; and the Church not merely tolerates different laws, but regards them as creating obligations in conscience. Dowries, trousseaux, bride-

[1] Encycl. *Quanta cura* of Pius IX. and *Syllabus errorum*. See Hergenröther, *Catholic Church and Christian State*, English trans., I. pp. 233–237.

[2] See Paul Allard, *Les esclaves chrétiens*, liv. ii. ch. iii.

money, marriage-money, dowers, and separate goods, can hardly, without further explanation, be put down as Christian or un-Christian. But still there are some things of precept and some of counsel. The husband is bound by the law of the Church, whatever the law of the land may be, to support his wife properly, that is, not with mere aliments, but with enough to be able to make presents, to give alms, to live according to her station, and to do whatever would excite attention if she omitted to do it.[1] And this claim of the wife does not end with the death of the husband, but his property is liable to it, if she is not otherwise provided for. So the Church engrafted the practice of dower on the Customary Law of all Western Europe.[2] Again, laws or agreements like those of ancient Egypt, by which the husband ceases to be the head of the house, and becomes a mere pensioner of the wife, without the control or administration of those goods that serve for the household expenses and for educating the children, are opposed to the nature of Christian marriage.[3] Nay, further, the habitual possession by married women of much property, wholly independent of the husband, is opposed to the permanent nature and intimate character of the union of Christians; is quite unnecessary for the protection against cruel, spendthrift, or profligate men;

[1] Lehmkuhl, *Theologia moralis*, I. *n.* 895.
[2] Maine, *Ancient Law*, third edit., p. 224.
[3] Costa Rossetti, *Institutiones Ethicæ et juris Naturæ*, 1884, p. 428.

(for this can be done by settlements, rights of dower, and homestead laws that require the wife's consent for certain alienations and mortgages;) and implies an anticipation of separation. Whereas the ideal of Christian marriage is to hold all goods in common.[1] No wonder, then, the Canon Law differed widely in this matter from the later Roman Law, which was adapted for divorce and favoured separation of goods.

§ 108. The same distinction between what is essential and what is accidental, what variable and what immutable, must be made in regard to the general position of Christian women. Her true dignity is secured by her marriage being made holy, single, and indissoluble; and also by her liberty to choose a life of celibacy or of marriage. This liberty the Church has maintained for women no less than for men, and has refused to make the validity of marriage or the obligation of religious vows dependent on the consent even of the parents. As I have already said, her teaching has created a peculiar type of woman-

[1] . . . illuc quoque pertinent [matrimonia], ut meliorem vitam conjugum beatioremque efficiant; idque pluribus caussis, nempe mutuo ad necessitates sublevandas adjumento, amore constanti et fideli, communione omnium bonorum, gratia cælesti, quæ a sacramento proficiscitur (*Arcanum divinæ*).

I think Sir H. Maine would hardly now write as he has done in *Ancient Law*, third ed., pp. 158, 159, that the expositors of the Canon Law "deeply injured civilisation" by keeping up the "proprietary disabilities of married females."

hood (*supra*, § 105). But this does not exclude great variety in externals, notably in literary education and industrial employment. But although the Christian Church pays a wise deference in these non-essentials, where sentiment is so powerful, to the sentiments of particular times and places, and contents herself with proclaiming the essential doctrines that secure the dignity and equality of women; still, I think, it can be laid down that no work and no study for which women are not unfit physiologically, is discouraged by the Church, provided always that the two rules are observed, that there be nought contrary to Christian modesty or to the order and discipline of the Christian family. For example, the work of women underground in mines and the employment of young men and girls mixed together in factories, are offences against the one rule; while the employment of mothers day after day and all day away from their home, offends against the other rule, which also would be violated were it usual for married women to take a more public part than their husbands in political affairs. But neither rule is violated by women undertaking rough open-air farm-work,[1] or again by

[1] See the interesting description given in *The Tablet*, 4th March 1882, of the farm of 300 acres at Darnétal, near Rouen, and being one branch of a reformatory for girls. Two men are employed to look after the horses (there are twenty-five of them) at night. Everything else, including ploughing, carting, and roadmaking is done, and done well, by the girls under the direction of nuns. There is nothing unfeminine in their dress or manners; they wear short stout petticoats, woollen stockings, strong shoes, and large straw hats while working

their reaching the highest excellence in literature, science, and art.

§ 109. When, therefore, we meet the phrase emancipation of women, it is well to inquire its meaning. If it means assimilation of the two sexes in all things, we can say it is folly and mischief; since their position and occupation in every society must be widely different, and ought to be: must be, because of the mental and bodily peculiarities of women; and ought to be, because of Christian modesty and the subordination of women in the Christian family. But if emancipation of women means freeing them from unjust scorn and disabilities, from being thought inferior beings, vicious and incompetent for high things, but admirably fitted by Providence or nature to minister to man's sensual enjoyment, to bear him children, to rear them for him during the troublesome age of childhood, to nurse him in sickness, to manage the cooking and scrubbing, on the whole, a most use-

out of doors, and a different dress on Sundays. They are all attached to the home, and the excellence of their work is attested by the medals of the Society of Agriculture and by the farm paying extremely well. The girls at the age of eighteen are sent to situations, and are much in demand as gardeners, dairy women, and farm managers. Mark that town-bred girls are sent to other departments of the reformatory, and not to the farm, which is for country-bred girls. And this is no isolated case; for there are many other feminine agricultural colonies in France, that flourish under the superintendence of nuns. What is injurious to women is not hard muscular work, but continuous work like pressing the pedal of a sewing-machine for hours, or standing for hours behind a counter.

ful possession; we can say that emancipation in this sense is excellent, but old. For women were emancipated centuries ago by Christianity.[1] The essential doctrines I have already sufficiently explained; and here need only be added how there arose, as a natural consequence, the intellectual cultivation of women. Ozanam, in a beautiful chapter on Christian women, has described this feature of the new religion. "Christianity had scarcely appeared when already the example of Christ instructing the Samaritan woman, was imitated. St. John wrote to Electa, and all the Fathers of the Church wrote for women. Tertullian composed the two books *Ad uxorem suam*, the treatise *De cultu fœminarum*, and the treatise *De velandis virginibus*. His proud and untamed genius bowed down before these handmaidens of Christ, and he declared himself the lowest and humblest of their brethren. St. Cyprian used the same language in his book, *De habitu virginum*. St. Ambrose composed three works on virginity, and speaking to the virgins who might read him, said: "If you find any flowers here, they are those of your virtues; and the perfumes, they are all from you" (A. F. Ozanam, *La civilisation au cinquième siècle*, ii. p. 95, 96. Second edit.,

[1] Those who cling to the notion that what has raised women has been the "progress of civilisation," *die höhere Kultur* (Roscher, *Nationalökonomie*, § 250), should compare the women of Demosthenes or Seneca with those of Homer or of regal Rome; and the wealth, power, art, literature and science of late gyneocratic Egypt, with these things in early Egypt.

1862). He notices the honour paid by St. Augustine to the philosophy of his mother; and how St. Jerome was surrounded by Christian matrons full of eagerness for learning, who formed at Jerusalem a sort of school of theology and languages, and at whose pressing requests he undertook the gigantic work of translating the Hebrew Scriptures (*Ibid.*, p. 96–101). How serious was the training this same St. Jerome thought fit for women, can be seen from his letters to Læta and Gaudentius on the education of their daughters.[1]

§ 110. And what was done in the fifth century has been repeated again and again, whenever external conditions have allowed it, and can be seen to this day.[2] The Church, the perpetual champion of learning and reasoning, has no wish to keep half her children

[1] Epist. 107, *ad Lætam, de institutione filiæ*, Ep. 128, *ad Gaudentium, de Pacatulæ infantulæ educatione* (ed. Migne).

[2] An interesting article on these matters is to be found in *The Catholic World* (New York), June 1875, vol 21, p. 324 *seq.* A woman, St. Catherine of Alexandria, was the patroness of learning and eloquence; her statue was in the old universities and schools. The papal university of Bologna can show the names of many women illustrious in canon law, medicine, mathematics, art, and literature. And not merely were they learners, taking their degrees, as late as the eighteenth century, in jurisprudence and philosophy, but teachers also. Anna Mazolina in the year 1758 was professor of anatomy, Maria Agnesi was appointed by the Pope professor of mathematics, Novella d'Andrea taught canon law for ten years, and a woman succeeded Cardinal Mezzofanti as professor of Greek. Remember, among painters, Sister Plautilla a Dominican, Marietta Tintoretto, and Elizabeth Sirani; and that a woman, Plautilla Brizio, was an architect at Rome in the seventeenth century, building a palace and the chapel of St. Benedict.

from study and science; and it is not from her friends that has come the unseemly ridicule cast on learned women, but from her foes. In France the prejudice against the intellectual labour of women was "one of the most evil inventions of the eighteenth century, that century of impiety and licentiousness. . . . It was useful to all those husbands without virtue to have wives without worth. . . . For a man has to give some account of himself to a woman who is cultivated; . . . and so, for those vicious husbands, the desideratum was an ignorant wife, . . . not an inconvenient judge, a living conscience, an ever-present reproach."[1] The view that there are only two proper female parts, the coquette and the drudge, is wholly anti-Christian; and the Church, as if to mark her own view with the greater solemnity, has raised on her altars age after age, and still raises, women for our worship, saints like Catherine of Alexandria, Paula, Marcella, Lioba, Bridgett, Gertrude, Hildegarde, Catherine of Siena, Catherine of Bologna, Theresa, the venerable founders, like Madame Barat, of new orders of religious women, and many other glorious names who have combined learning and literature with their sanctity.[2]

§ 111. The relation of parents and children, although

[1] Bishop Dupanloup, *Femmes savantes et femmes studieuses*, sixth edit., 1868, pp. 21, 22.

[2] *Ibid.*, pp. 10–14, *cf.* Hettinger, *Apologie des Christenthums*, II. iii. pp. 292, 293.

not so liable as the relation of husband and wife to be distorted by passion, still needed to be restored and raised; and Christianity, as the reasonable religion, has had to contend against the excess of paternal authority on the one side, and its deficiency on the other. The child is not to be held a mere product of generation and the property of its parents; for Christian doctrine declares that the whole nature of man cannot be transmitted simply by the act of generation. But those also are equally to be condemned who, in their zeal for the dignity and independence of each individual soul, teach that this soul is created independently and even previously to the material generation. For if the first error contradicts the truth that the human soul is a purely spiritual substance and the image of God, the second error contradicts the unity both of the individual man and of the human race, and gives us two natures instead of one. Whereas the truth is this, that every human soul is not begotten by parents, but is altogether created by God; yet not created apart from the body either in time or in idea, but created for the body and in the body, so that by one indivisible act the soul is created, the body is informed with this soul, and a human nature is constituted. This doctrine of the origin of the soul is of great importance for the Christian view of moral responsibility, original sin, and redemption, and also, what is to the present purpose, for rightly understanding the nature and

limits of paternal power. That man, unlike all other living organisms, cannot of himself, without the special intervention of God, bring forth one of his own kind, may seem an imperfection; but it is an imperfection of greatness; for man is a personal being, and the entire fatherhood of such a being cannot by any possibility belong to a being that is itself created. And the imperfection, such as it is, is richly compensated by the earthly father being raised by God to be His fellow-worker and representative. Paternal power, or rather parental—for the mother is glorified in this co-operation no less than the father—thus assumes a sacred character such as is possessed by no other human power; and each child becomes a holy pledge, intrusted by God to the parents' care.[1]

§ 112. The distinction between what is accidental and essential to the Christian family has already been drawn (§ 106): the particular circumstances, for example, of England or Russia may lay particular duties on fathers or sons; but there are some duties that spring from the nature of the parental relation, and are the same in every country and every century. Now these last and essential duties are briefly as follows. Parents are bound to provide for the life and health of their children, till these can provide for themselves; and even then, if the children fall into want, and

[1] I have followed M. J. Scheeben, *Handbuch der kathol. Dogmatik*, § 151 (Book III. *n.* 446 *seq.*)

through their own fault, still the parents must give them at least aliments till they can support themselves. They are also bound to give each child the means, in particular the technical training, needful for his getting an honest living according to his station; similarly to provide a daughter with the means needful for her forming an honest marriage or for entering the religious life. But to heap up riches for them beyond this, there is indeed no obligation.[1] Parents, moreover, are bound to the utmost care for the spiritual welfare of their children, ever giving them a good example, teaching them the truths of religion, rooting out their faults, guarding them from evil associates, taking care, if they are taught outside the paternal home, that the teaching and the teachers be Christian; in a word, they must see that their children grow up and live as good Christians, mindful that they are themselves the ministers of Christ,[2] and must guard inviolate the sacred pledge, the image of God, with which they have been intrusted. Nor can any civil law absolve them from

[1] Lehmkuhl, *Theologia Moralis*, 1883, I. *n.* 785.

[2] Their functions in this ministry have been set forth by St. Augustine, *Tract* 51 *in Joan.*, *n.* 13: Cum ergo auditis, minister meus erit, nolite tantummodo bonos episcopos et clericos cogitare. Etiam vos pro modo vestro ministrate Christo, bene vivendo, eleemosynas faciendo, nomen doctrinamque ejus quibus potueritis prædicando; ut unusquisque etiam paterfamilias hoc nomine agnoscat paternum affectum suæ familiæ se debere. Pro Christo et pro vita æterna suos omnes admoneat, doceat, hortetur, corripiat, impendat benevolentiam, exerceat disciplinam: ita in domo sua ecclesiasticum et quodammodo episcopale implebit officium, ministrans Christo, ut in æternum sit cum ipso.

any of these essential sacred duties; and whatever rights they need to fulfil this their office, such rights no civil law can take away.

§ 113. Children of every time and every place owe their parents, their mother as well as their father, the triple duty of honour, affection, and obedience. The honour and affection must never fail: though the son be ever so exalted, the parents ever so lowly, ever so decrepit or ignorant, he must treat them with respect as his superiors; and neither time, nor distance, nor misconduct of the parents can cancel the duty of the children to help them in their necessities. The duty of obedience, on the other hand, is less absolute and lasting. For, its main reason being the training of the child and the order of the household, it comes to an end in great part when the child has become a man and has quitted the paternal home. As long indeed as he remains he must obey in matters of domestic order; and at all times he must think of their wishes (for this is part of the perpetual duty of respect), though in some cases he need not or must not follow them. For the Christian religion, in spite of, nay rather as a part of, its glorification of the parental office, puts limits to parental power. The very dignity of the child—with his likeness to God and his supernatural destiny—which makes the dignity of paternity and maternity, sets the child free from absolute dependence. And whereas he belongs to the State only

indirectly, that is, through his parents, he is immediately and directly a member of the Christian Church. When he is old enough to know the difference, he must do right and refrain from wrong; and though obedience is the rule for him, there may be exceptional cases where if he is to obey God he must disobey his parents. And when old enough to choose a state of life, if he is called to a religious life, he must go. Even those in the world, although they are bound to consult their parents in regard to marriage, and to obey them in all that is reasonable, are not bound to marry whomsoever their parents may choose, or refrain from taking as husband or wife one whom they love and against whom the parents can bring no just objection.[1] But though obedience to parents is thus limited, remember that the other two duties of honour and affection remain, and remain even when the parents are dead. For the Christian child will honour their obsequies, their tombs, their memory, their last wishes, and will show his affection by diligent care that fitting and reiterated prayers and sacrifices be made to God for their welfare.[2]

§ 114. The Christian principles on the relations of parents and children leave much to be more exactly

[1] Lehmkuhl, *l.c. n.* 790–795.

[2] Postremo vel mortuis parentibus honor tribuitur si iis funus facimus; si exequias cohonestamus; si honorem sepulturæ impertimus; si justa et sacrificia anniversaria curamus; si, quæ ab iis legata sunt, diligenter persolvimus. *Catechismus Romanus*, iii, 5, 12.

settled by the civil power, and allow a wide margin for different laws and customs suiting the mental or bodily peculiarities of any race, the economical or political constitution of any country. There are limits, indeed, as I have already observed (*supra*, § 106); the powers, for example, of the Chinese father over the marriage of his sons and daughters, and the deprivation now suffered by French parents of powers over the education of their children, are both anti-Christian. So too would be communistic equalisation of inheritances, or the absence of inheritance, each individual being provided for by the State, and not by his parents. Other laws and institutions, though bad in principle or in their results, are less unendurable, though they could scarcely survive in a Christian State. Such, for example, are the English Poor Laws that have worked such havoc with filial piety among our poor; and the French Law of Succession, with its compulsory partition, rendering a permanent home and a united family very difficult, and fostering disputes among relatives.[1] This French and that English law are alike in both having had their origin in a great revolt against the Christian Church.

§ 115. A third class of laws and institutions are fully tolerated, and cannot be said to be against the

[1] Thus in the year 1868 the number of judicial decisions in France on suits regarding successions nearly equalled those on all other civil suits, being 21,317, and all the others only 24,899 (Le Play, *La Réforme Sociale*, chap. 20, § 7, fifth edit.)

Christian principles of the family, but only to fall short of the highest standard. Thus the absolute power of the father in England and in some American States to give his entire property to strangers, and leave his children in beggary without even giving a reason for it, though perhaps in practice productive of little harm, still allows a very startling divergence between a man's legal and moral obligations in dealing with property. On the other hand, laws that restrict very narrowly the powers of testation may, under certain circumstances, like those of modern France, unduly weaken the father's authority, and always unduly restrict pious foundations, the proper support of Christian worship, and the proper service of the poor. Whereas the legacies we meet, for example, in mediæval Italy, to defray the outfit of one or more crusaders, to give dowries to so many poor girls, to construct or repair bridges and harbours (Cibrario, *Economia politica del medio evo*, II. pp. 2, 93, 262, fifth edit.), are quite in a Christian spirit; and the Church may be said to have favoured the right, but not the arbitrary right, of testation.[1] Finally, there are

[1] Of modern laws of succession perhaps the most reasonable and suitable to the times are those recently enacted for different parts of Germany, notably for the province of Hanover in 1874 and of Westphalia in 1882. According to the Hanoverian Law the yeoman's homestead (*Bauerhof*), including easements and live and dead stock, besides land and house, if registered and rated at not less than seventy-five marks (£3, 14s.), can be bequeathed by the father to any one of his children; and this heir (*Anerbe*) succeeds to the whole registered property, and has to pay to his brothers and sisters only a very moderate

many laws and institutions that in the abstract are indifferent; for example, the rules to secure the authenticity and validity of testaments, the age fixed for reaching majority, the liability for debts contracted when you were a minor, the capacity of children to acquire property or conduct business separate from their father. It is for the civil law to determine these matters, and when determined they give rise to obligations in conscience, since we are taught obedience by the Church to every just law of the State.

§ 116. Brothers and sisters are bound by the Christian law to love and help one another. One of the family cannot take his portion and wash his hands of the rest, saying they are bound to him only, like every one else, by the common tie of Christian

portion, and this in money, and not necessarily paid (if the father so appoint) till they are of age. These portions (legitims) are reckoned as follows:—The whole property, after deducting debts and charges, is valued at twenty times the average annual revenue—as we should say, at twenty years' purchase. The sum obtained is then divided into thirds; one goes entirely to the heir, the other two are divided equally among all the children, the heir included. If there is no will, the eldest son is the heir of a registered *Bauerhof*. Mark the importance of the low rate at which the revenue is capitalised, to the gain of the heir. If it was reckoned at over thirty years' purchase, as in England, he would have to pay his brothers and sisters much more. See Claudio Jannet in *La Réforme Sociale*, 1 Juil 1883; Roscher cited by R. Meyer, *Heimstätten und andere Wirthschaftsgesetze*, pp. 351–356. The common law of Germany (derived from Rome) fixes legitims at one-third of the property to be divided equally among all the children, or one-half if the children are more than four. All the children succeed equally in case of intestacy.

charity. For there is the special virtue of dutifulness (*pietas*) which he must practise towards them:[1] it may fall on him to help the education of his younger brethren, to give dowries to his sisters, to give help to any brother or sister who has fallen into distress. This does not indeed imply the necessity of joint families, a joint family being where more than one married couple live together in one household. You can be friendly and helpful to your parents and brethren, though you live with your own wife and family in a separate house. Still the initial stage of the joint family, where at least one married son or daughter lives with the parents, is more congruous to the Christian ideal of parental and fraternal relations, than where marriage habitually means separation. We may therefore expect to find this kind of joint family among Christian populations. How it was still common in France, even among the rich, before the First Revolution, is known from the passage in Arthur Young's travels where he expresses his surprise and admiration at finding families habitually dwelling together in one house.[2] Exactly the same feature excites the attention of the American traveller in modern Mexico,[3] of the English consul in the Balearic Islands,[4] and of an English lady settled

[1] Lehmkuhl, *Theologia moralis*, I. *n.* 794, 890.

[2] His testimony is cited and the contrary practice of England noticed by Le Play, *La Réforme Sociale*, chap. 30, § 8.

[3] A. S. Evans, *Our Sister Republic*, p. 369.

[4] C. T. Bidwell, *Balearic Islands*, pp. 9–10.

among the peasantry of Central Italy.[1] Whereas in England, although we read, we do not follow the counsels of the Psalmist: *Ecce quam bonum et quam jucundum, habitare fratres in unum* (Ps. cxxxii. 1). And the custom that has long prevailed among our land-owners, that on the death of the head of a house the son and heir, with his wife, who have hitherto lived apart from the parents, come in, and the widowed mother has her place taken, and goes away from the house that she has long ruled: is scarcely to be reconciled with the Christian teaching of what is due to a widow and a mother.[2]

§ 117. On the other hand, we must not think there is anything peculiarly favourable to the Christian ideal in the later stage of the joint family. This is where the several united families are no longer under the direction of a common ancestor, but under an elected head. Such families are common in China and India, and in the middle of this century were common in

[1] *Country Life in Italy*, in *The Cornhill Magazine*, November 1881, pp. 687, 688.

[2] Even Le Play, who in general has a great admiration for all that is "Anglo-Saxon," has only blame for this practice (*l.c.*) It is no characteristic of our race, for, as Claudio Jannet has pointed out, in the Middle Ages the widowed mother remained mistress of the home, as she still is in France, Italy, and Spain, among those families who have kept to the old traditions; and he refers to the fifteen volumes of wills published by the Surtee and Camden Societies. *La Réforme Sociale*, (not Le Play's work of that name, but a magazine by his followers), 1st July 1883, p. 73. Moreover, much of North America has reverted, as we shall see directly, to the practice of mediæval Catholic times.

Russia and among the Sclavonians of the South of Austria. Now I think that under the circumstances both of the Northern and Southern Sclavonians these joint families were of immense benefit to them, being a security against poverty and against oppression—*l'union fait la force*, a school for self-government and association, promoting hospitality and wholesome recreation, protecting the weak and keeping the idle and worthless under control. It has fared ill with the domestic life of those people since the general break up of the joint families that began among the Russians in the seventh, and among the South Sclavonians in the eighth, decade of this century;[1] and if the only alternative was the family law of England or of France, I should say that a peasantry could fulfil the duties of the Christian family better when joined in great households. But there are other alternatives, that neither dissipate the inheritance and break up family ties and mutual responsibility of brethren, nor

[1] On Russia, see D. M. Wallace, *Russia*, chap. vi. and chap. xxxii.; E. de Laveleye, *Primitive Property*, pp. 18, 19 (English translation); On South Sclavonia, A. J. Evans, *Through Bosnia and Herzegovina*, pp. 45–60; A. J. Patterson, in *The Fortnightly Review*, 1872, New Series, vol. xi.; Rudolf Meyer, *Heimstætten und andere Wirthschaftsgesetze*, Berlin, 1883, pp. 139–146. Mr. Wallace's testimony to the evils of the change is all the more unimpeachable as he shows a dislike to joint families, imagining, as a true (modern) Briton, that they involve the pleasant alternative of perpetual squabbling or domestic tyranny! (i. p. 142). The impoverishment of the Croatian peasantry and the gain of pettifogging lawyers, by the break up of the "Zadrugas" (joint families), since 1874, is well described by the special correspondent, "Among the Southern Slavs," in *The Times*, 19th August 1884.

on the other hand, like the extended joint family, lessen the peculiar responsibility of parents for their own children, the peculiar care of children for their own parents, and the liberty of marriage.

§ 118. Take, for example, the admirable body of legislation known as the Homestead Exemption Laws of North America. The States are many, and the laws are seldom exactly the same in any two of them; but I think the following general statements can be made. In the great bulk of the States a genuine farmer's homestead is privileged property, sometimes *ipso facto*, sometimes if he register it. The home and the farm, with household utensils, stock and land enough to live and farm decently, are exempt from seizure for almost any kind of debt, the main exceptions being taxes and arrears of purchase money. The owner of the homestead can alienate it, but in most States he must first get his wife's consent, and in many this consent must be given apart from her husband. Mortgaging is still more restricted, and in Texas and Louisiana is forbidden even though the wife give her consent. Moreover, if the homestead is sold, the purchase money, or a part of it, is generally exempt from seizure for a year, and a fresh homestead can be acquired with it in the interval. Nor is the family to be scattered at the death of the head. On the contrary, the widow has the right to dwell in the homestead all her life, and the children have a right

to dwell there undisturbed till the youngest of them is twenty-one years old. The homestead therefore forms no part of the assets of the deceased that the administrator deals with to discharge his liabilities: it is not liable for his debts. And by some means which I do not fully understand, the law will not allow you by your last will and testament to deprive your widow and children of this sacred reserve.[1] It is not difficult to see how such legislation, whatever the motives that produced it, is in complete accord with the Christian teaching on family duties.

II. Christian Practice.

§ 119. But perhaps it may be objected, what is the use of a teaching that is not followed, of an ideal that cannot be attained; that if the foregoing sketch of Christian doctrine be correct, the family life proposed may (or may not) be a fine fancy, but certainly in fact has proved a failure; and that Christianity by med-

[1] I have followed the instructive collection of laws published at Berlin in 1883 by Dr. Rudolf Meyer, entitled *Heimstaetten und andere Wirthschaftsgesetze.* The chief and best part is the collection of various American laws. The Homestead Exemption Laws began in Texas in 1839, and by 1882 had spread to forty-one out of forty-five States and Territories of the Union, and to British Columbia and Manitoba. A far-reaching Homestead Exemption Law has been in force in Servia since 1874 (*Ibid.* pp. 260–276). And so, unlike the rest of South-Eastern Europe, Servia is not agitated by a Jewish Question (*Academy*, 10th May 1884, reviewing E. de Borchgrave, *La Serbie*).

dling too much with morals has made matters worse. We shall have to listen perhaps to the proverb, *Naturam expellas furca, tamen usque recurret;* and to its illustration from the history of Christian scandals, from the courts of Byzantine or Merovingian princes, the manners of the troubadours, the tales of Boccaccio and Chaucer, the age of the Medici, down to the misdeeds of the continental cities or South American youth of the present day. This is the practice, we may be told, that comes from all that preaching.

Now this objection is founded, partly on facts whose significance is misapprehended, partly on ignorance of facts. It is quite true, from the time of the Corinthian converts of St. Paul down to our own day, there has been a great divergence between what has been taught by the Church and what has been practised by Christians. This applies to all departments of morals; and if we supposed all Christian children to be dutiful and parents exemplary, all husbands and wives faithful and friendly to each other, no discord between brethren, we should be greatly mistaken. But then we have no business to make any such supposition. We may, if we have the mind, take up the position that the Christian Church is mistaken and mischievous, and try and support that position. But we are unreasonable if we blame her for not doing what she does not profess to do.

§ 120. Now she teaches us that nature, though not evil in itself, is weak and fallen, and thus, on the whole,

in conflict with grace. She teaches us that the life of the Christian must be a constant warfare against the world, the flesh, and the devil; that being a Christian does not remove the perpetual tendency to lapse into sin, but only supplies means not to fall, and possibilities of rising again. But the Christian may reject the means of safety or recovery. For "faith is illuminative, not operative; it does not force obedience, though it increases responsibility." And thus, on the one hand, the bad Christian is worse than any non-Christian, *corruptio optimi pessima;* and, on the other hand, the Church cannot protect herself from the intrusion of the vicious and weak. She is there for them; each of their individual souls is to her of priceless worth; and though they disgrace her during life, she is satisfied if they can be hers in reality as well as name at the hour of their death. For, quite in contrast to the world, her primary interest is not how men live, but how they die. And again, quite in contrast to the world, she holds that riches are *prima facie* an incentive to vice, and poverty *prima facie* a state favourable to virtue; whereas the world, having quite another standard of vice and virtue (reducing them to what is disreputable or respectable), agrees rather with the northern farmer:

"Proputty, proputty's ivrything 'ere, an', Sammy, I'm blest
If it isn't the saäme oop yonder, fur them as 'as it's the best;"

and with the converse truth:

"Taäke my word for it, Sammy, the poor in a loomp is bad."

But from the Christian principles[1] there ought to be nothing to surprise us in the existence of much immorality among Christian populations, and of occasional instances of extreme depravity. And, further, just as among the trading classes, busy in making money, we must expect habitual rebellion against the Christian teachings on fair dealing; so among the rich and powerful we must expect habitual rebellion against the Christian teachings on chastity: a perfumed, indolent, and gilded youth will assuredly kick against the yoke.

§ 121. But the objection I have named is also founded on ignorance of facts. The Christian ideal of family life is not impossible, but is reached by many. Even for those who fall short, it is a great thing to have a noble ideal that is ever inviting them to a reform; and it is better that there should be scandals than that morality should be so lax that scarce anything is scandalous. And in spite of scandals we say that the burden laid on us is not heavy, inasmuch as grace makes it light, and that the examples of the practice of Christian life, both celibate and married, are abundant and consoling. For, besides the type of devout Christian lay-woman already spoken of (*supra*, § 105), and seen in every century, besides the crowd

[1] In speaking of which I have followed Cardinal Newman's lectures viii. and ix. on the social and religious state of Catholic countries in his *Difficulties Felt by Anglicans in Catholic Teaching*, fourth edition.

of men and women who follow the religious life, and who are ever being persecuted by the world, that finds in their virtues an unpleasant commentary on itself, we see the Christian Church ever striving to produce, and often successfully, the observance of Christian family life among the poor. Who, for example, has not heard of Ireland, and how there a vast population, suffering the extremities of economical and political oppression, without literary or artistic cultivation, the externals of their religion and all its accidental dignity and attractiveness reduced to a minimum by persecution, still in virtue of that religion, and by docility to its teaching, amid their hovels that were not fit for cattle, how they showed a shining example of Christian family life, sins of the flesh being scarce known among them, and reverence for parents and dutiful care for their brethren being universal. Nor were these virtues the product of the race or the land, but of the religion. For the same land had been once a scandal in Christendom for its licentiousness: the same race, when transplanted among the After-Christian populations of English and American cities, frequently loses in a single generation the characteristics of chastity and dutifulness. These are no peculiar gifts of Kelt, any more than of Teuton or Slav, Greek or Latin; they are gifts of religion.

§ 122. Take again another country, and one not in high repute, a land of mixed races and revolutions,

where, if family life is good, the goodness can scarce in reason be ascribed to anything but the religion, and hear what an After-Christian traveller, without knowledge or love of the Christian religion, found after the land had passed through about forty years of anarchy. The American Colonel A. S. Evans speaks as follows of Mexican family life as seen in the years 1869 and 1870 (*Our Sister Republic*, chap. xvi.)—"As a rule the influence and control of parents over their children never fully ceases save with death, and after death their memory is cherished, it seems to me, with more fondness than elsewhere in the world. . . . The children in Mexico strike you with surprise and admiration. You see no idle, vicious, saucy boys running around on the streets, annoying decent people by their vile language and rude behaviour. All the boys you see have earnest faces, and walk with a sedate and grave demeanour like grown-up men. I never saw a badly behaved child in Mexico. In the family circle the people are models for the world. The young *always* treat the old with the deepest respect, and the affection displayed by parents for their children and children for their parents is most admirable. The daughter of a good family in Mexico, though grown to womanhood, will kiss the hand of her father when she meets him on the street, and always kisses her parents, brothers, and sisters at morning and evening, and many times during the day, with great warmth and earnestness. When the

children marry, they usually remain under the parental roof as long as the parents live, and the parents control the house."[1]

§ 123. But the American traveller was wrong in one point, in thinking that Mexico was a solitary and marvellous example; for the same causes had produced among many other lands and races the same effects. Let any one look through the collection of monographs now published in an accessible form under the title, *Les ouvriers européens*, by F. Le Play, second edition, Paris 1878. An elaborate description is given with all the needful details of some sixty typical families of the working classes from one extremity of Europe to the other, as they appeared about the middle of this century. Now the reader will find not a few examples of populations where the Christian religion is practised in its integrity; and in all these examples he will find the Christian family flourishing, as in Ireland and Mexico, with its two great characteristics of chastity and dutifulness. Look at the Hungarian peasant family on the plains of the Theiss observed by Le Play in the year 1846 (vol. ii. chap. 7) — solid piety, religious education of children, purity of morals, not an illegitimate child in the commune, affection and care bestowed on children, respect for women and the aged, early but not premature marriages,

[1] The same testimony is given in the last chapter of *Mexicans at Home*, by a resident, London 1884.

profound reverence by children all their life to their parents.[1] Look, again, at the German iron-smelter's family at Hundsrucke, near Coblentz, observed by Le Play in 1851 (vol. iv. chap. 2). Look at the Basque families of peasants or fishermen as they were to be seen in 1856 at St. Sebastian in Spain, or at Lavedan and Labourd in France (vol. iv. chap. 6 and 9, vol. v. chap. 5). Look at that amiable Provençal family described by M. Focillon in 1859, and typical of a whole class, half peasants in their native village,

[1] There was also great prosperity and security among the rural population, protected by a feudal constitution. The land was mostly held on a tenure of service (tilling the lord's land); the peasant's holding was not divisible beyond a certain limit; the second son generally was the heir, the eldest son joining the army; and no mortgaging was possible. By the changes that followed the troubles of 1848, completed after 1866, the peasants were left defenceless, and a swarm of Jewish usurers descended on them, and have filled the land with desolation and woe. The appalling official returns are given by R. Meyer, *Heimstättengesetze*, p. 7 :—

Rural Population of Hungary in	1870.	1880.
Landowners	1,631,071	1,133,086
Farmers	46,317	22,236
Officials	14,860	10,923
Farm servants hired by the year	1,332,080	518,814
Day labourers	1,314,293	783,748
	4,338,621	2,468,807

Thus in ten years over five hundred thousand farmers and over thirteen hundred thousand farm labourers were swept away. In the single year 1878 the compulsory public sales of lands numbered 15,285, and the proceeds of these sales fell short by over eight million florins of the debts they were meant to cover. Besides these sales of landed properties, there were 157,519 others; and the fresh mortgages were so much in excess of the old ones paid off that the total indebtedness of the land increased in that one year by over fifty million florins.

half workers in the soap-factories of Marseilles, and whom the iniquities of French legislation, and the temptations of a great city, had not been able to turn from faith and reverence, from moral purity and domestic peace (vol. iv. chap. 8). Look at the crofter of Brittany visited by M. Duchatellier in 1851 (vol. iv. chap. 7).[1] Look at the family of Tuscan metayers as they were found by M. Peruzzi in 1857, and, like a multitude of their fellow-peasants, living happy and secure, full of affection and reverence, and honouring their religion by the outward and inward practices of piety (vol. iv. chap. 3).

§ 124. Further, there is another class of examples that can be brought forward. For although Christianity can only be fairly judged from its effects where its doctrines are held in their integrity, and though the ideal can never be reached in family life or in

[1] A charming picture of the two Breton islands Hoedic and Houat was given by the Abbé Delalande in the *Annales de la Société Académique de Nantes*, May and June 1850, and reprinted. They truly might have been called the islands of the blest. Mark among the traits of their life : "Une naissance illégitime est chose inouïe . . . inouïe qu'un homme ait frappé sa femme ; celle-ci tient la bourse, mais elle en délie facilement les cordons pour les menus besoins du mari, et une *entente cordiale* règne toujours au sein du ménage. La proposition Crémieux pour le rétablissement du divorce . . . ne trouverait dans nos îles aucun écho, aucune sympathie. Les hommes et surtout les femmes se disputent quelquefois, mais jamais leur bouche ne se souille de paroles obscènes ou injurieuse." And he describes how courtship and marriage are conducted with the modesty and dignity that is natural where all life is penetrated with the Christian religion (pp. 86–89).

anything else among those whose doctrine has suffered mutilation or corruption, still they may hold so large a portion of Christian truth and be so obedient to the Christian traditions of the past, that their family life, though not the highest, may be very admirable. It would be unfair and ridiculous to call them After-Christian, and to treat, for example, the family life of the Puritan New Englanders at the beginning, or of the English gentry in the middle, of this century, or of the North German miners, as though it could be put under the same head as the family life of the modern New Englanders, of the English working classes, or of the German liberals and democrats of Berlin. We might as well mix up the Roman family under the kings with that under the emperors, or the Homeric with the Periclean. And these examples of what can be reached by an incomplete Christianity, render it still more preposterous to maintain that Christian teaching is impracticable.

§ 125. Turn, therefore, again to Le Play's great collection of monographs, and read the account by MM. Coronel and Allan of the fishermen and crofters of the island of Marken in Holland in the year 1862 (vol. iii. chap. 5). They were a church-going, Bible-reading community, the children receiving a religious education, parents receiving, with scarce an exception, respect and obedience, mothers devoted to the training of their children, illegitimate children rare, and the

fault always repaired by the subsequent marriage of their parents. There was freedom of choice in marriage, mutual affection between husband and wife; and divorce, although permitted by their civil law and by their Calvinist religion (they followed the synod of Dordrecht of 1618), was unknown in practice; nay, even second marriages were rare, for to continue in widowhood was held a form of conjugal fidelity.

The same simple observance of all the Christianity they knew, and the same happy and healthy family life, were to be found among the Lutheran lutemakers of the Erzgebirge in Saxony (vol. iii. chap. 2, § 22), and much good was to be found in the family life of the Lutheran Swedes in 1845 (vol. iii. chap. 1), of the Russian peasants in 1853 (vol. ii. chap. 2), and of the Bulgarians in 1848 (vol. ii. chap. 6).[1] And as I shall have to say things about the lower ranks of my own country that to Christian ears are shocking and sad, it is some consolation that among the toilers on our land the Christian family is by no means unknown; and the household of the Shropshire small farmer recently

[1] Much information on the Bulgarian peasantry during the twenty years previous to 1878 is to be found in the work, *The People of Turkey*, by a consul's daughter and wife, London 1878: not very polished, but simple, docile to the clergy, the women good housewives, and having much ascendency over their husbands, and the home happy and united (i. pp. 26–34, 195–204; ii. pp. 26–30, 114–125). Notice that a large trousseau of jewellery, dress, and other soft goods was customary, and also the payment of bride-money worth some £50 to £300. But I understand (ii. p. 125) that dowries were coming into fashion, and bride-money going out.

described by Lady Gaskell (*Nineteenth Century*, Oct. 1884)—church-going, God-fearing, where a chapter of the Bible is read daily after the morning meal, where there is order, and discipline, and union—is cast in the same mould as those Dutch and Saxon peasants already named. And the mould is Christian.

§ 126. If we turn from the present century and look at those that have gone past, from the time when the Christian Church was first able to work on a grand scale at the sanctification of the poor, we see her striving to set up a family life such as I have described. It is sufficient, as so much has been said already, to give two brief illustrations. And as France will supply us with a conspicuous example of the After-Christian family, it is well that the same country should supply an example of Christianity. The sources of history, in particular those unpublished family records known as *libri rationum* or *livres de raison*, have been examined by M. de Ribbe in his book on the families of France in the olden time.[1] The inner life of the French homes has been laid before him, and he has found in the fifteenth, sixteenth, and seventeenth centuries a deeply religious spirit among rich and poor, filial piety, parental devotion, reverence to the mother and the widowed mother, the traditions of the past handed down from one generation

[1] Charles de Ribbe, *Les familles et la société en France avant la Révolution*, Paris 1873. I have used the first edition, but there have been several subsequent ones.

to another, a family house for poor as well as rich, not a lodging or a tenement, cultivation of the intellect among women as well as men, charity to the poor, edifying deaths, pious legacies (notably there were foundations in almost every village to enable poor girls to marry), wills a source of union, not of disputes and lawsuits, peace among brethren, in a word, the Christian family.

§ 127. The other illustration can be taken from Germany, and here again I can refer to a book that is easily accessible and is filled with facts not fancies.[1] Here we see a sweet picture of the German house and its inhabitants, their union and piety. And the rules of the trade guilds throw a light on home life. For not only was immorality a bar to admission; not only were mutual kindness and help, as though they had all been brothers, an essential feature of the guilds, as well as religious worship together and charity to the poor, but in two other points they show the family spirit of the time. One is the honourable position and privileges given to the wife and widow of a master; the other is the fatherly care bestowed on apprentices. For the master and apprentice were bound together by a solemn covenant; the boy became one of the family, and the master was responsible not merely for his technical training, but

[1] Johannes Janssen, *Geschichte des deutschen Volkes seit dem Ausgang des Mittelalters*, ninth edit., 1883. See especially vol. i. pp. 26–29, 151, 206, 331, 338–340.

for his moral life; and the covenant was no empty form, but habitually fulfilled in letter and in spirit. And just the same attractive features are to be seen in the guilds of England and France;[1] for, as a conclusion to this part, let me say of all the previous illustrations, that they are to show the effect, not of race but of religion; to set forth, not what is Irish or Mexican, Basque or Hungarian, French or German, but what is Christian.

[1] On England, see L. Brentano, *History of Guilds*, London 1870, pp. 65–70. On France, C. Périn, *De la Richesse*, ii. pp. 267–274 (second edit.)

Part III.

AFTER-CHRISTIAN FAMILIES.

§ 128. The Christian doctrine of the family does not profess to be welcome to carnal man, nor expect to be followed without resistance or backsliding. It is not surprising, therefore, but natural, that the Christian Church should have had to cast forth, century after century, the insurgents against Christian marriage, such as the Gnostics and the Manichæans, the Albigenses, the Lollards, and the Anabaptists. But the doctrines of this formidable array of heretics have been suicidal by their excess, and although working much mischief, are not of world-wide influence. They are rather to be classed with the Shakers, the Perfectionists, and the Mormons of our own day; and though they are the most extreme among the insurgents against the Christian family, they are the least important, and need not occupy us further.

Very different are the other forms of the After-Christian family, which occupy half the globe and have supplanted the Christian family on innumerable hearths.

These forms can be reduced, I think, to two. The first is the Mohammadan family, the family, that is, of a religion which professed to be an improvement upon Christianity, and which, in fact, gained the mastery over about one-half of Christendom, nor has ceased in making its votaries even to this day almost impervious to Christian teaching. The second form of the After-Christian family arose some twelve centuries after the first, and, unlike Mohammadanism, is not based on religion and an alleged new revelation, but on what is supposed to be reason in opposition to revealed religion. But, like the doctrine of the Mohammadans, it professes to have weighed Christianity, to have found it wanting, and to offer something better. Beginning in France in the last century, it has become widely spread in the present century, and its chief seats (though it is nowhere wholly dominant) are France, North Germany, Switzerland, England, and the United States of America. Let us make some examination of both of the chief forms of the After-Christian family.

I.—The Mohammadans.

§ 129. In speaking of the Mohammadan (or Moslem) family, I mean, not Mohammadan Hindus or negroes, nor, again, the Beduin Arabs or the nomad tribes of Central Asia—for these are to be considered rather as Fore-Christians than as After-Christians—but I mean the settled and civilised Mohammadans in Arabic-speaking lands and in the Turkish empire, and as they were in the early part of the present century. For as their family life was then, so it had been in most of its features for many centuries.[1]

A Mohammadan may not marry within certain prohibited degrees of consanguinity or affinity;[2] moreover, the foster-mother is treated in this matter as a real

[1] My chief guide is Mr. Stanley Lane-Poole's edition of E. W. Lane's notes to the *Thousand and One Nights*, under the title, *Arabian Society in the Middle Ages*, London 1883. I can refer also to the two monographs of a peasant community at Bosrah, in the Hauran, in 1857, and of a carpenter at Tangiers in 1855–56, given in Le Play's *Ouvriers européens*, tom. ii., edition of 1878; C. B. Klunzinger, *Upper Egypt*, London 1878; *The People of Turkey*, by a consul's daughter, edit. by Stanley Lane-Poole, London 1878; Almaric Rumsey, *Moohummudan Law of Inheritance*, third edit., 1880; T. P Hughes, *Notes on Muhammadanism*, 1875. Also, with much reserve, M'Coan, *Slavery in Egypt* and *Slavery and Polygamy in Turkey*, in *Fraser's Magazine*, May 1877 and October 1878.

[2] Namely, no ascendant, descendant, sister, sister of ascendant, niece, or her descendants; nor, again, wife's mother or daughters, father's wife, son's wife, grandson's wife, nor to have at the same time two wives who are sisters or aunt and niece. Unlawful connection creates the same barriers of affinity as lawful marriage.

mother, and relationship by milk treated, with some exceptions,[1] as relationship by consanguinity; the wife, if not a Moslem, must at least be a Christian or a Jewess, and a man may not marry his slave till he has emancipated her. More noticeable than these prohibitive rules is the habitual practice of relations intermarrying. The daughter of your father's brother is preferred, or, failing her, some other collateral; and the large majority of all marriages are consanguineous, forming an extreme contrast to the practice of the Chinese.[2]

§ 130. As the usual age for marriage is from 12 to 16 for women and from 15 to 18 for men, the choice of a partner for first marriages must clearly not be made by the parties themselves, and in fact it is habitually made by the parents or relatives. It is held a duty of the father to procure a wife for his son; and the services of some female relative or professional intermediary (*khátibeh*) are generally required, as there is not merely a rigid separation of the sexes, but women are carefully veiled, and a man may only see those unveiled whom he may not marry. Nay, even the legal permission to see, before the contract is made, the face of the girl he is to marry, is seldom

[1] You may marry your sister's foster-mother, your foster-sister's mother, your foster-brother's sister.

[2] Remember, however, that second wives (the first being still alive) are usually chosen from strangers, and slave concubines always so; and thus there is a mixture of blood which would not exist if they kept up the custom of intermarriage and gave up that of polygamy.

allowed by parents except among the lower classes. The help of astrology is often called in to ascertain whether the proposed husband and wife will agree. We must not, however, suppose that romantic attachments are unknown. There is quite a language of flowers and other emblems by which two lovers may communicate. Only this is exceptional both among Arabs and Turks, and must be so from the surroundings, and is probably a relic of ancient manners, when the modern strictness and seclusion were less observed. A young girl given in marriage by her father or guardian never has any freedom of choice; an elder woman, I think, seldom or not much; and though her consent is asked, this is rather a form than a reality. But as polygamy and divorce are allowed, a man, after receiving his first wife from his father, may have many opportunities of choosing for himself. If he seeks one of his own rank he must trust to female intermediaries; the parents of the girl may make difficulties about his rank being not high enough,[1] or his preference of a younger to an elder daughter, or his being of a different trade to them, or may require an exorbitant sum to be settled on the bride. It is not surprising, therefore, that in view of these difficulties, and to get a contented and submissive wife, he often

[1] The "equality" (*kafat*) required, that a marriage be not voidable by the guardians, means that the husband be not inferior to the wife in his tribe (obsolete, I think, among the civilised Moslems), in his religion, his freedom, his character, his fortune, and his trade. But there is nothing against the wife being inferior to the husband.

selects a girl of inferior rank or one of his own slaves to be his wife. Even in the last case the marriage is not considered as a *mésalliance*, and there is this peculiar advantage, that there is no mother-in-law or other relatives of the wife to interfere with the husband's autocracy.

§ 131. Mohammadan marriages are characterised by the absence of a dowry on the one hand, or of bride-money on the other, and by the invariable presence of marriage money, which is known by the name of *Mihr*. A certain sum, namely, must be given from the husband's side and settled on the wife,[1] the smallest sum allowed being ten dirhems, now only worth some five shillings of our money, but fixed when the sum could purchase many times over what it can now. Moslems of the middle class frequently give what would equal thirty or forty pounds among ourselves;[2] but only a half or a quarter of that if the bride is a widow or divorced woman. Usually the larger portion is paid when the marriage contract is made; and the girl's father or guardian buys with it a stock of movables for the wife, and adds an outfit of his own, so that the girl gets a trousseau as well as the

[1] *Mihr* is usually translated as "dower;" but this term is wanted to express the property the *widow* receives from her husband's estate.

[2] Lane says "about twenty pounds sterling" (*l.c.* p. 230). But this no longer means what it did in the first half of the century, and readers in the year 1885 require money comparisons adapted to the prices they are accustomed to.

marriage money.[1] And this stock of goods the husband cannot take from her. It is absolutely her own. She can dispose of it at her pleasure; can sell it, if it be a specific object, to her husband; and may even give it up to him after they are married, though perhaps this letter of the law is restrained by custom. One-third of the marriage money remains an obligation on the husband's estate,[2] to be paid on his death, or on his divorcing his wife, or on her death to her heirs, if she die before him.

§ 132. Beside always receiving at least some marriage money to do as she likes with, and usually a trousseau, the wife has also her dower, namely, the right to a share in the property of her deceased husband. This amounts to one-eighth of his property, or even to one-fourth if he has left no children or son's children. And the divorced wife only loses this claim after four

[1] In Turkey—and perhaps it is the same in Egypt—it is customary for the bridegroom to furnish the wedding-dress, which among the rich may cost over £100, being embroidered with gold and pearls (*People of Turkey*, ii. pp. 85, 89). The goods furnished as trousseau or bought with the marriage money are generally in the form of bedding, kitchen utensils, plate, furniture, house linen, clothes (*Ibid.*, pp. 89, 90). The burden of expensive marriage festivities (*Ibid.*, p. 90) is not, I think, common to all Moslems; and in Egypt the expense of the feast is lessened by every guest sending a present of provisions (Lane, p. 233). The same convenient custom prevails in the Hauran (*Ouvriers européens*, ii. p. 396).

[2] This is called by M. Rumsey "deferred dower," opposed to "prompt dower." But even this deferred payment is better expressed by some other word than "dower."

months and ten days have elapsed (the legal interval before she can marry again). So dower cannot be evaded by a death-bed divorce. Remember, however, that there may be four legal wives ; and the share of each will then be only one-fourth of one-eighth.

Finally, a Mohammadan married woman, besides her claim for dower and for the remainder of her marriage money, and her absolute and separate ownership of what was given her at marriage, may also have separate goods quite distinct from her trousseau and marriage money. For marriage gives the husband no power over the property which a woman has, or gets, of her own ; and she is likely to get some, because, as we shall see, women inherit, and are in the main not excluded by men, but only receive less. Nor does her possession of separate goods, if I rightly understand, exempt her husband from his obligation to give her maintenance and habitation.

§ 133. The Moslem Law of married women's property is adapted for habitual divorce and polygamy. The husband has an absolute power of arbitrary and instant divorce ; but he must pay something for the indulgence. The wife naturally keeps her own separate goods that were in no way his, but also takes with her out of his house the goods that made up her trousseau and her paid-up marriage money, and what is yet unpaid he must also hand over to her, and give her three months' alimony into the bargain ;

and he alone has to maintain any children of the marriage.[1] When indeed the wife herself seeks a divorce (a rare case, and only allowed if the husband consents), she loses both marriage money and trousseau. A man may take a wife back again a first or a second time;[2] but if he divorce her a third time (or even the first time by a triple sentence), the deed is irrevocable, and she can only again become his wife after being married to another man, and then being divorced by this new husband; after which the former husband, if she gives her consent and he makes a fresh marriage contract, can marry her again.[3]

The law therefore puts some check upon divorce; but this check is slight. Marriage money, even among equals, is not large; to give it up need not be very burdensome; payment may be evaded by treating the wife so harshly that she herself sues for divorce;

[1] If they are very young they remain with the mother till a certain age, the father paying for them, and having the right to see them as often as he wishes (Klunzinger, *Upper Egypt*, p. 168).

[2] Any time within three months of the divorce he may take her back, even against her wish; and not till after the three months (or, if with child, till she has given it birth) may she contract a new marriage. He must give her support until she has weaned the child aforesaid, which of course belongs to him, and has to be maintained by him.

[3] In Turkey, where "this strange and disgusting law" is in force, when the two parties wish to be reconciled once more, their only resource is to pay an old man, generally of the poorer class, to play the part of intermediary husband. But if by any chance he turns traitor, and refuses to divorce the woman, there is no remedy; and cases of this kind do occur, though rarely (*People of Turkey*, ii. pp. 83–85). Similarly in Egypt (Klunzinger, *Ibid.*, p. 169).

and, as we have seen, many men marry those below them in rank, even their own slaves. It is not surprising, then, that "there are few of middle age who have not had several different wives at different periods, tempted to change by the facility of divorce" (Lane, p. 223). Nor is a man lowered in public estimation by so doing. The divorced women also are frequently married again, sometimes more than once. Indeed there is a counsel to marry a divorced woman, as likely to be humble, in preference to a widow with her bewailings and her comparisons.[1]

§ 134. Divorce among Mohammadans is closely connected with polygamy, and both are supported by the separation of the sexes and the seclusion of women. It is natural to allow a man to put away a woman whom he has married without even having seen her. But if she would be reduced to want by divorce, humanity seems to call for a permission, while taking a second wife, to keep the first. Then, if you have more than one wife, and they become irreconcilable, divorce can be used as a remedy; at the same time, the ease of divorce checks polygamy, when a man fears that he will have to divorce his first wife, through her influence or that of her relatives, if he takes a second. Then,

[1] The sentiment that a widow or divorced wife should not marry again, is not altogether unknown, at any rate among the Moslems of Egypt, where it exists as an exceptional sentiment, chiefly in country towns and villages. Lane knew of a family where it was the rule (Lane, p. 223).

too, if the first wife is barren (and barrenness is said to be commoner in hot climates than in temperate), and you are too attached to her to divorce her, you may take a second wife in the hope of obtaining children. So there is much to say from a Mohammadan standpoint in favour of these two institutions. And the Moslems defend the separation of sexes and the separate lives and worlds of men and women as a happy contrivance, truly democratic and fraternal, allowing the free mingling of different ranks and extending the sphere of friendship and society, because there is no risk of unequal marriages (in their sense, see § 130), each sex keeping to itself; and there is but this one barrier instead of the numberless barriers of European society. True indeed "fickle passion is the most evident and common motive both to polygamy and to repeated divorces" (Lane, p. 245), the latter being much the most frequent of the two. But the Moslem may retort that this is better than the hypocrisy and licentiousness of Europe. And indeed, as we shall see, the champions of the After-Christian family in the West have no title to throw stones at their After-Christian brethren and predecessors in the East.

§ 135. We have yet to look at Moslem polygamy somewhat more in detail. The law allows a man to have four lawful wives at the same time; and although to have more than one wife at a time is rare among

the middle classes, and not common among either the higher or the lower, still it is sufficiently common to be an important feature of social life, especially as the chief barrier to its greater prevalence is not any dislike to it, but its expense.[1] How far it is productive of jealousy and hatred is a matter that is not easy to find out. There are many examples of sincere affection between fellow-wives, and a good husband is supposed to treat them with impartiality and lodge them in separate houses or chambers. Still there is evidence of much jealousy. To suppose that the majority of polygamous husbands will treat a childless and faded wife with impartial attention is to suppose too much; the Arabic word for fellow-wife is derived from "injury," "because fellow-wives usually experience injurious treatment one from another" (Lane, p. 245); and there is a common proverb, "The life of a fellow-wife is bitter" (*Ibid.*, p. 246).

§ 136. But if plurality of wives is still rarer among the middle and even the upper classes than among the poor, the seeming moderation is made up for by the frequent practice of keeping one or more slave concubines.[2]

[1] "A poor man may indulge himself with two or more wives, each of whom may be able, by some art or occupation, nearly to provide her own subsistence; but most persons of the higher and middle orders are deterred from doing so by the consideration of the expense and discomfort which they would incur" (Lane, pp. 244, 245).

[2] The more austere Moslems hold that the permitted number of four, means that wives and concubines together must not exceed that number. The laxer allow four wives and any number of concubines besides.

For the most part these concubines are Abyssinians or Circassians, and are indulged with the same luxuries as free ladies; they rank high above free servants; they are often taught needlework and embroidery, sometimes music and dancing, and formerly many of them were well read in poetry. Nor are female slaves wholly at the mercy of their master; for, besides the strong pressure of public opinion that would condemn inhumanity, the law has several provisions in their favour. The master may give a slave who is not his concubine in marriage to whom he pleases, but he may not dissolve the marriage when once made. And if a man recognises, as his own, a child of his slave, the mother can never be sold, and becomes free at his death, while the child is in all respects legitimate, and in the same position as the son of a free wife. The law may be said to contemplate the union in marriage, or at least in concubinage, of master and female slave; for he may not possess any one as a slave who is within the prohibited degrees of kinship. True, the barren slave is unprotected; and even if she bears him a child he need not recognise it, and it becomes his slave, not his son; but the love of offspring makes this rare.

§ 137. Slavery, therefore, is quite different among Mohammadans from that under European planters, or that of classical Greece and Rome. No doubt it is like them in the horrible cruelties of the slave trade;

but when once the slaves are procured, they are habitually treated, it seems certain, with kindness—as kindly perhaps as any domestic servants anywhere, and occupy, I believe, a position in society more honoured than that of domestic servants in England.[1] Indeed the precepts of Mohammad on humanity to servants are an echo of Christianity. The gulf between Christians and Moslems is not in kindness but in morals. We must not indeed exaggerate; the traffic in eunuchs is small, as they are only to be found in the houses of those high in rank or of great wealth; and the bulk of the male slaves who are negroes, are merely domestic servants, well clad and fed, and often liberated in a few years and set up in business. Nor, perhaps, must we judge of all Islam from the depravity of the rich classes among the Turks during recent centuries, or of the Saracens under the later Chalifs. But the standard of chastity is indeed low; the purchase of slaves to be wives, or concubines, or trial concubines, is conducted in a manner shocking to Christians to hear; and when we are told that a man's relation to his female slave has no stigma of immorality attached to it, that frequently a slave is raised to be a wife, that this is not thought a *mésalliance*, that slaves frequently marry the

[1] Sometimes even a man will buy a slave to be the husband of his daughter (Klunzinger, p. 40). But is not this, indeed, almost confined to the case (*Ibid.*, p. 16) of a handicraftsman without a son, and who buys a slave, teaches him his trade, and gives him his daughter?

daughter of their master (Klunzinger, p. 387 *seq.*) : we answer the Mohammadans that their creed is an abomination to us, that they belong to the religion of sensuality, that these dealings with slaves appear so light to them, not because they have raised up the slave women, but because they have lowered all women to immodesty and degradation.

§ 138. In truth, according to the theory and the practice of Mohammadanism, women are held as an inferior order of beings, higher than the brute creation, but lower than men, and existing to minister to the wants and pleasures of men ; to be treated kindly, indeed, and forming the choicest of all their husbands' treasures, and guarded carefully in a place forbidden (*harîm*) to strangers ; but no rational companions for a man, being both deficient in judgment, so that you consult them only to do the opposite to what they advise, and so much more depraved than men that the devil was full of joy when they were created. A woman has no right to sit at table with her husband ; he avoids her in the street ; she is among unclean things in religion, is generally excluded from the mosque, and excused the prayers incumbent on men. For, in extreme contrast to Christianity, devout women are quite an exception among Moslems ; girls are taught a few chapters of the Kuran, but are not even supposed to be taught the whole, and piety in women is even looked on with dislike. They seldom learn

to read or to play any instrument, except to beat a kind of drum and tambourine with their fingers; but embroidery and other ornamental work is often taught to girls of the middle and higher ranks,[1] and ladies bestow some care that their daughter may have an elegant gait and "various alluring and voluptuous arts with which to increase the attachment of their future husbands" (Lane, p. 205). The service of the husband and caring for the children, cooking, baking, cleaning, sewing, weaving, and spinning, form the occupation of the poorer women; while those of higher position have at least to see that these duties are done by the female slaves. But although sedentary and unhealthy indolence is not the rule among Moslem women, as some ill-informed persons think, still it is very common, at least in Turkey and Morocco, among those who have slaves to do the household work. Leisure hours are spent by women in adorning themselves, in bathing, in smoking, and above all in conversation and visiting each other.

§ 139. Indeed the women form a little world of themselves and a society apart, excluding even the master of the house from their meetings, in which bath-women and midwives are conspicuous; having only women doctors to attend them; ruling over the

[1] Even in the houses of the wealthy, many women replenish their private purses by the sale (done by a female broker) of ornamental needlework they have made (Lane, p. 239).

little children, or rather pampering and petting them, not teaching or training them; and in the society of their slave women and their neighbours' slave women, indulging, for lack of rational interests, in conversation that at best is frivolous, more likely malicious gossip, and probably often, as is certainly the case in Turkey, conversation that is filthy. They acquiesce in their position of inferior beings to men, and make up by asserting their power in artful and hidden ways.[1] So no wonder it is held certain and notorious among Moslems that they are more cunning than men.

Nor is it the least in contradiction to this picture of Moslem women, that not seldom we find sincere attachment between husband and wife, though the wife has lost all her beauty, and has no power or wealth of her own or of her relatives (Lane, pp. 207, 208, combating Burchhardt). For just as the evil passions of men will break out at times even amid the best surroundings, so too our better nature is not wholly suppressed by the worst of misreligions or irreligion. Moreover, among the peasantry there is less opportunity for the worst features of *harîm* life. But a philosophy or a religion must be judged by its effects where its influence is least frustrated. And Mohammadanism cannot even boast that if its level of morality is low, it is at least kept up to. On the contrary, there is much, and manifold, and sickening

[1] *Cf.* James Bryce, *Transcaucasia and Mount Ararat*, p. 376.

immorality, that even by that lax religion is acknowledged to be immoral.[1] The French in Algeria had to suppress the revolting public shows known as *Karageuz;* but they have continued in Morocco, where, shameless and nameless foulness appears to reign (*Ouvriers européens*, ii. chap. 9., pp. 436, 442). Among the Turks of the upper classes the disregard of the innocence of children, who learn all filthiness, especially among the servants, with whom they pass much of their time, the disgusting dances of the dancing girls at marriage festivities, the widespread practice among the women of all classes, when once they have had a male child, to destroy any further children before their birth (*People of Turkey*), and other abominations, place the Mohammadans of Turkey in the front rank of After-Christian progress.

§ 140. One point more requires to be spoken of regarding Mohammadan women. Their present position is eminently the result of Mohammadan theology, and is by no means the result of the victorious Arabs having substituted their own manners and customs for those of the nations they conquered. It was not the race but the religion that worked the mischief; and in truth the family life of the Moslems, after their

[1] See the admissions of Klunzinger, p. 166. Also Lane, pp. 220, 221, who well marks the higher moral purity of the nomad Arabs (whose Mohammadanism, remember, is feeble, and almost nominal)—"Affairs of gallantry . . . are . . . infrequent among most tribes of Bedawees, and among the descendants of those tribes not long settled as cultivators."

religion had had time to work, was almost as unlike that of the former conquering Arabs, as it was unlike that of the conquered Christians. A change had come that in many ways reminds us of the change from Homeric Greece to the Athens of Pericles. "In old times"—I am citing Mr. Lane-Poole's *resumé* of von Kremer[1]—"the Arab woman was not merely reckoned her husband's equal, she was the object of chivalrous respect. All the old stories and traditions bear witness to this noble trait in the character of the Arabs of early days. The modern *harîm* system was as yet undreamt of. The maiden of the desert was unfettered by the ruinous restrictions of the later Moslem life. She was free to choose her own husband, to bind him to have no other wife than herself; she might receive male visitors, strangers even, without suspicion. Her virtue was too dear to her and too well assured to need the keeper. She went to the mosque as well as men, a practice now unheard of. Jurists decided that it was impossible that a woman could be bought. Her husband treated her, not with love only, but with reverence. It was she who inspired him to deeds of valour, and it was her praise that he most valued when he returned triumphant. To protect the lives and the honour of women was the highest duty, the noblest privilege, of the Arab chief." The polygamy that existed was

[1] In *The Academy*, 2d February 1878, reviewing the second volume of Alfred von Kremer's *Culturgeschichte des Orients unter den Chalifen.*

like that of the Scriptural patriarchs, and almost a matter of necessity and public duty, that the head of the clan might strengthen his alliances and secure his people, and in no wise a sign that the Arabs thought little of the sanctity of marriage, of the dignity of women, and of the disgrace of immorality. On the contrary, they held bastardy an indelible disgrace, they paid the greatest attention to purity of blood, bad women were scarcely known among them, and unnatural vice not at all. The dismal change that came had for its efficient cause, not, forsooth, Arab blood, or some chapter of accidents, but the great After-Christian religion, working amid favourable surroundings its miserable work.

§ 141. Mohammadan law gives much power to the father of a family. It is not a capital offence for a man to kill his own child or descendant; children are taught to show to their father great external respect; and he is supposed to train his boys in good manners, good morals, and religion; to send them to the schools where theology, law, and literature are taught gratis or for little (as educational endowments abound in Islam); and finally to provide them with a wife. Disobedience to parents is reckoned one of the seventeen "great sins;" and I think the Moslem father can generally count on reverence, support, and even great affection from his children. How far the mother shares any portion of this filial piety is another

matter; in Morocco she is said to receive as a rule much love and respect from her children (*Ouvriers européens*, ii. p. 430), and I think the same can be said of most Moslem peasant mothers. But in Turkey, both in high and low life, mothers have little control over their children, whose rudeness and disobedience are painful to witness (*People of Turkey*, ii. p. 154 *seq.*) And from adult children it seems more likely, considering the general Mohammadan view of women, that a mother will receive care and kindness rather than obedience and respect.

§ 142. In the disposition of property the father has much power. He can incur debts for which his heirs are liable as far as there are assets. The creditor indeed must take money first, then personal effects, and lastly houses and lands; moreover, no interest is allowed and no mortgage recognised—I am not speaking, let it be remembered, of Moslem countries where or since they have come under the sway of non-Moslem money-lenders. The father also, besides incurring debts, may freely alienate his property during his life, and is by no means only a co-owner with his family. Of course he cannot alienate what is not his; and as much of the land is not what we should call freehold, but rather is held on a perpetual lease from a mosque (*Vakouf* or *Wakfi* land), the holder can only transfer the lease. But this he can do; and the only class of property, if I understand

rightly, which a man may not alienate at pleasure during his life, is that held of the Government in the Turkish empire, and known as *Mirié* or *Miri;* and even here all that is required for alienation is the permission of the authorities.

This power of the father to alienate his property without the advice or consent of his family has, as its natural complement, the power of his wives and of his sons to acquire and hold property apart from him, and over which he has no control,[1] only a claim to succeed to a portion of it if he outlive them. Thus the rights of fathers and of widowers form an important part of the law of inheritance. Further, on the same principle of keeping goods separate, and each man and woman being for himself or herself, a man's widows and children are not liable for his debts beyond what can be met by the property he leaves behind.

§ 143. The power of disposing of your property after your death is much less unlimited. You may leave one-third of it, but no more, by will; and even this third may not be left to any one you please; for you may not alter the order of heirs to your estate,

[1] Thus the eldest son of the perfumer at Tunis, described in tom. iii., No. 25, of *Les ouvriers des deux mondes* (from observations in the year 1858), though only twenty-five years old, and though living with his father, and on the best terms with him, had his interests separated from his father's, had his own private stall at the bazaar, distinct from his father's stall, and paid for his board and lodging (and for that of his wife) at his father's house.

and favour one by giving him or her a legacy. Such a legacy is invalid, unless indeed it is made valid after your death by the consent of the other heirs. So, in fact, you have only full power to give legacies to strangers ; and the right of testation is, I take it, rather a means to provide for old servants, slaves, and concubines, than to alter the position of your heirs, or to regulate according to their deserts or necessities the amount each of your children is to receive. But in one point the Mohammadan testator has the advantage over the English, that he is not bound by elaborate formalities nor liable to have his wishes set aside through some technical flaw ; but his wishes are carried out, and his will is equally valid whether by word of mouth or in writing. Women, be it observed, have the same testamentary powers as men.

The rule that any legacy to your heirs is invalid (unless the other heirs consent to it after your death), applies to all kinds of deathbed gifts. But the other rule, that you may bequeath only one-third of your property, though it applies to ordinary deathbed gifts, manumissions, and the half-gifts known as acts of *mohabat*,[1] by a strange oversight or inconsistency, does not apply to a gift in the shape of a deathbed acknowledgment of debt. Thus, according to the letter of the law, you can on your deathbed grant the whole of

[1] Namely, where you purposely give more or take less than the proper price of an object, or proper reward of labour, *e.g.*, sell me pearls for 100 dirhems that would fetch 500 at the bazaar, or give me double the wages you promised.

your property to a stranger. But custom may be stronger than law, and I doubt if this mode of disinheriting your heirs is ever put in operation.

§ 144. The law of inheritance among the Moslems is very curious and complicated, and quite unlike any other example that I have cited or that I know. Whether or not its origin was in the application to all property, and notably to land, of the rules that had been in use for distributing the animals and tents of nomad Arabians, its effect is to break up the family property and to prevent the endurance of any family, age after age, in an ancestral home. This law of inheritance, omitting technical terms and the detailed rules for a number of contingencies, we may state in its main features as follows :—All property is treated alike, no distinction being made between movables and immovables, or between inherited and acquired property. When a man dies, his father has a claim to one-sixth of his property, his mother to one-sixth, and his widows together to one-eighth ; the residue is divided among his children in equal shares, except that the shares of daughters are half those of sons. If your father, mother, and widow are all alive, little over one-half of the inheritance is left for your children ; but as a man usually survives his parents, it is more usual that only the widow's eighth has to be deducted from the children's share. Grandchildren have no claim if any children are alive—

there is no representation; but in default of children, the sons of sons take the place of children and have the aforesaid residue divided among them *per capita*. If there are daughters but no sons, then the daughters have a right, not to any residue, but to a definite share of the property, namely, two-thirds; but an only daughter takes no more than one-half. In default of both sons and daughters, then the daughters of sons can claim as though they were daughters, namely, two-thirds, or if there is but one of them, one-half. If there are no widows, nor children, nor son's children, then the father takes two-thirds and the mother the remaining third, unless indeed the deceased has left brothers; for these between them will take a sixth and the mother a sixth. The widow, if there are no children, takes a fourth instead of an eighth. On collateral succession it is enough to remark that the whole blood generally receives a larger share than the half blood, and the male line than the female; and that the same principle holds good of dividing into shares and disallowing representation. The property of women is not a separate category, like the Hindu *stridhan*, but, *mutatis mutandis*, follows just the same rules as men's property, the husband succeeding to the wife, just as she would to him, only with the difference that he takes a fourth, where she would take an eighth, and a half, where she would take a fourth. And there can be only one husband, but many wives.

§ 145. The full significance of this order of succession would escape us, unless we remember that by children are meant the children of concubines no less than of wives ; and that through polygamy and divorce the existence of half brothers and sisters is common, not, as among ourselves, the exception ; and how the property of man and wife is kept apart. We might fancy the law devised to scatter every inheritance and to produce with its complicated fractions the utmost possible confusion.[1] A lasting home, a solid peasantry and nobility, are scarce possible with such a law. Already I have spoken of the democratic nature of Moslem society, meaning by democratic the absence of hereditary inequalities in position and power. There is the great inequality of the sexes ; but beyond that there is great equality. One trait is the absence of surnames, which are quite exceptional, and only existing where some ancestor has gained great renown. Generally all that is added to the personal

[1] Sir H. Maine (iv. p. 126) agrees with Mr. Almaric Rumsey's conclusion that the first expositors of this law (supposed to be of divine origin) were ignorant of some simple principles in the manipulation of fractions. The mathematical greatness of the Arabs came later. An illustration from Mr. Rumsey's eleventh chapter will give some idea of the calculations required. A man dies leaving three wives, six sons, and six daughters. Wives take $\frac{1}{8}$ altogether, and thus $\frac{1}{24}$ each. Residue $1-\frac{1}{8}=\frac{7}{8}$, to be divided in the ratio 2 : 1. Hence sons take $\frac{2}{3}$ of $\frac{7}{8}=\frac{7}{12}$ altogether, and thus $\frac{7}{72}$ each. Daughters take $\frac{1}{3}$ of $\frac{7}{8}=\frac{7}{24}$ altogether, and thus $\frac{7}{144}$ each. Reducing the fractions to a common denominator, we find each wife takes $\frac{6}{144}$, each son $\frac{14}{144}$, and each daughter $\frac{7}{144}$. This case is a comparatively simple one.

name is the name of the father or native place. Often if a man or woman has a son, you call them the father or mother of such a one, naming the son. How different from the careful genealogies of the Chinese! nay, how unlike the nomad Arabs of the desert, among whom so much attention is given to good blood!

§ 146. Another contrast to the Chinese is the rarity of joint families, which might keep together in fact what was scattered at law. No doubt there is not the same rapid break up of the members of a family, which is familiar to us in England and America; on the contrary, among the peasantry in Egypt the children as often as not remain with their father and mother in their common dwelling till both are dead, and need not always separate even then. Still there is no legal community of ownership and earnings; the father may squander the property; the sons can go away; the wife may keep her own goods separate.[1] And mark, as the converse of use

[1] In that district of Syria that is known as the Hauran, bordering on the desert, joint families are indeed the rule; but the reason is the absence of any orderly government, so that mutual help is needed as protection against the Beduins, and necessity compels brethren to dwell together and to be subordinate to their head. The land, moreover, open and abundant, is not held in permanent ownership; and even if a discontented member, who wished to separate without the consent of the community, was able to get a judicial decision to take according to Moslem Law his share of the oxen, sheep, and other movables; the legal judgment would not have the smallest chance of being executed in the Hauran (*Ouvriers européens*, ii. chap. 8).

in common, that not seldom, where property will be damaged by partition, the co-sharers resort to partition by usufruct, that is, each of them in turn enjoys the property for a time that corresponds with the amount of his share. Nor is there worship of the dead to keep up family traditions and feelings. True there is a great desire for children, whose support and whose training is so small a burden; and this desire is stimulated by the Mohammadan doctrine, that their infant children who die before coming to the knowledge of sin, will introduce their parents with them into Paradise. But this is merely an encouragement to marriage or to polygamy, and no means of making the family tie permanent. The desire for children is chiefly for male children, on the part of the wife that she may please her husband, and on the part of the husband that he may have companions and helpers, and support in his old age; not that there may be successors to the name, and virtues, and tradition of his ancestors. And so, like the rest of After-Christian families, those of the Moslems are feeble and transitory.

II.—The Irreligious French Peasantry.

§ 147. The apostle of the After-Christian family of France, nay, of Europe and America, is a title that may be given to Rousseau. And whereas Christian doctrine tells us of man's fallen nature, that we have within us a root of corruption, how it is all-important that the young be early trained to subdue their evil passions, and by repeated acts to gain the habits of virtue and the means of resisting the capital vices of pride and concupiscence, and that the family is the chief and primary institution for this training: Rousseau taught that man is naturally good, loving peace and justice, his natural inclinations always right; that children are born free, and only associated with their parents as long as they are too young to support themselves. As soon as they are old enough for this, then the society is dissolved and father and son both become independent of each other.[1] And the func-

[1] See the citations given by Ribbe, *Les familles en France*, Bk. ii. chap. 1, and by Le Play, *L'organisation de la famille*, second edit. pp. 104–106. Part of Le Play's indignant comment is as follows:—"Never, in four sentences, has the true nature of a free and prosperous society been more completely falsified. Never has man been more naively brought down to the level of the brute. The child, far from being free at his birth, is dependent on all that surrounds him. And then he only raises himself to the degree of liberty and well-being which, by a long series of efforts, his race has secured, if he is willing to submit with docility to the moral law and to the traditions that are taught him by his parents and his masters. Moreover, when he has grown up he only preserves this liberty, and transmits it to his descendants, by

tions, importance, and duration of the family being thus reduced to a minimum, there remains as the one great bond of social union, and as the one great agent and director of education, the State.

§ 148. These doctrines were a part of the general revolt in the eighteenth century against Christianity; and when they triumphed in France at the First Revolution, the various ancient laws of succession were swept away and a new and uniform law was introduced for the whole of France. This law in its main features was adopted in the *Code civil*, and has since remained part of the French Law. Men and things are treated as though they were figures in an arithmetic book. No distinction is made of age or of sex, nor between acquired and inherited or movable and immovable property. In the case of intestacy everything is divided equally between all the children, and an army of officials, interested in their fees, enforce the letter of the law, however disastrous to the survivors, and prevent the making of family arrangements. Nay, so eager is the law for partition that even when all the co-heirs are of full age they cannot make an agreement to remain in undivided ownership (*indivision*) that is valid for more than five years. Nor can a

remaining united to a numerous family by the ties of respect and of love. Finally, it is only by having this family to back him up, by this pleasantest and most natural of communities, that he can escape the tyranny of those who hold the reins of power in the commune, the province, or the State."

father avert the partition by testament or evade it by donations. For what he can give during his lifetime or bequeath at his death is strictly limited, and must not exceed in value one-half of his property if he have but one child, one-third if he have two, and one-fourth if he have more than two.[1]

§ 149. Moreover, you cannot settle as you like this disposable half, third, or fourth of your property: all you can do towards keeping it safe in your family is to settle it by donation or bequest on your grandchildren or on your nephews and nieces, but on no others, and to give a life estate to your children, your brothers, or your sisters.[2] Mark also that at the death of either parent, the children, if they have reached eighteen years of age, come in at once for their share of the deceased's property, and the surviving

[1] If you are childless, but have ascendants alive in both the paternal and maternal line, you may give away or bequeath only half your property. If there are ascendants in one line only, your power extends to two-thirds; and if you have no ascendants (and of course no descendants), to the whole of your property.

[2] This is called *substitution de la quotité disponible.* Notice that in these settlements you are still obliged to do homage to the equality of age and sex, and whatever you give must on the death of the holder of the life estate be divided equally between all his (or her) children. Thus, although you may choose any particular son, daughter, brother, or sister you like to be the holder of the life estate (*le grevé*), say your youngest daughter, you may not choose any particular one of her children to succeed on her death, but all you give must be equally divided between all her children. A law of the Restoration allowing you to settle on two generations (*substitution à deux degrés*) was rescinded in 1849. Le Play, *La Réforme Sociale,* fifth edit., chaps. 20 and 23; *Code civil,* art. 1048 *seq.*

parent has no usufruct for life, much less any right of disposing of this property. Indeed all the kindred that can succeed come in before husband or wife, and the succession *ab intestato* of widower or widow is a last resource before the property escheats to the State. True, though you have children, there is a special provision in the Code (Art. 1094) allowing you to leave your wife or your husband the usufruct of one quarter of your property and the full ownership of another quarter; but failing this the widow or widower takes nothing; and if the dead parent were the rich one, the children may be seen living in opulence and the surviving parent in penury.[1] The Code seems devised to strike at the root of parental power, to scatter every inheritance, to make every family unstable, to prevent permanent residence in one place, to break off domestic and national tradition, to fill the pockets of all the harpies of the law. And it seems a sorry jest when this very Code takes to preaching the filial duties it prevents you practising, and solemnly enunciates in its 371st article—"L'enfant, à tout âge, doit honneur et respect à ses père et mère."

[1] The father, or if he is dead, the mother, has the usufruct of the children's property till they are eighteen and the administration till they are twenty-one. But he loses both if he emancipate the children; and this can be done when a child is only fifteen. Bishop Dupanloup notices how difficult it is for a surviving parent not to emancipate a child that has much property of his or her own, and the wretched cases of poor parents and rich children (*De l'education*, tom. ii. chap. 12, Paris, 1857). In this and the previous chapter he shows the frivolous bringing up, the utter neglect and spoiling, of the French children of the richer classes; the corrupted and insolent youth; the break up and disappearance of families.

§ 150. Of late years anti-Christian legislation in France has made two great steps in advance, by setting up irreligious primary schools and by sanctioning divorce. But these measures are too recent for their effects as yet to be rightly judged; and the following description of the After-Christian family among the French peasantry refers to the time of the Second Empire.[1] I need hardly say that it only applies to a certain portion of the peasantry, as a large portion, particularly in Brittany, Auvergne, and the South of France, remained Christian. I need hardly say, also, that although I take my illustration from the peasantry, there were and are abundant examples of the After-Christian family among the urban work-people and among the upper classes.

Religion appeared to the enlightened peasantry as childish. Their children indeed they allowed to be baptized and to make their First Communion, and the parents would sometimes on great festivals be present at Mass. But this was not because they were religious, but because they were indifferent: they had no objection to the parish priest plying his trade, as long as he in no way interfered with theirs; and the children to be respectable must have made their First

[1] The chief sources I draw from are the monographs of families given in *Les ouvriers des deux mondes*, tom. iv. No. 29, and *Les ouvriers européens*, tom. v. chap. 7, tom. vi. chap. 4. The dates of observation were respectively the years 1861, 1856, 1858–60. Some of the amenities of French rural life are amusingly described by Sardou in the play, *Nos bons villageois*. A brief notice of Balzac's description of the peasantry (or one type of them) under Louis Philippe is given by Mr. Lilly in *The Contemporary Review*, June 1880, pp. 1028–1030.

Communion. So they used what means they could to get the troublesome ceremony over as soon as possible, and put pressure on the clergy to make the age for it no later than twelve. For after the ceremony the children could be set fully to work and had no need to attend school or catechism any longer. Nay, they had every encouragement to forget every Christian doctrine and forego every Christian practice. The parents only spoke of religion to deride it. Were you to name to them the future life and judgment to come, they would scornfully reply, "*Qu'en savez-vous?*" (How can you tell?) But they made up for lack of religion by plenty of superstition: scarce a village was without a practitioner in hidden arts for curing men and cattle, or without an old dame who could be useful in various ways; for example, throw grains into water, and manifest by the way they sank the nature of some illness; while a sorcerer who promised a lucky number for the conscription, was sure of a welcome.

§ 151. The freedom from the trammels of dogma give scope for the play of man's natural dispositions. The particular disposition that will appear most active is determined by the surroundings, and affords an interesting study to the psychologist. Among the freethinking French peasantry two principal types can be observed—one dominated by the desire of acquisition, the acquisition of land in particular; the other by the desire of enjoyment. The first class have been compared in their eagerness for gain to the

Polish Jews (*Ouvr. europ.*, v. p. 362), and are perhaps the most laborious and parsimonious race in Europe. For if they do not spare their wives, their children, and their workmen—they generally end by being rich enough to employ workmen—they certainly do not spare themselves. They live to acquire. Not a farthing can you get from them for worship or for the poor; at the same time, they keep from drunkenness and debauchery, for such pleasures are costly. They cannot waste every seventh day in idling, and so the Sunday is employed in doing repairs, taking stock, and doing the commercial part of farm work—travelling, buying, and selling.

The same desire of acquisition will guide a man of this class in his choice of a wife; he will see that she has a good dowry and ulterior claims of succession; and she herself will share in a minor degree the philosophy of her husband, and, if possible, surpass him in industry, adding the labours of the house to those of the farm. M. Callay reckoned that the wife in the family he observed (and it was no exceptional case) did, in fact, 405 days' work in the year, reckoning a days' work at ten hours. The man, it may be added, rested only seven days in the year, and his children only twenty-one days (*Ouvriers des deux mondes*, iv. p. 68). That such work should produce physical degeneration, is not surprising; and, besides, the mother weans her child as soon as she can, and then often leaves it all day while she works in the

fields, returning only at mid-day to feed it. So we find many children diseased, deformed, or imbecile.

The children as soon as they are nine years old begin to work for their parents ; and when they have reached twelve and made their First Communion they work, as we have seen, with little interruption of holiday. But, after all, there is something to be said for getting what you can from them while they are young ; for the parents, as we shall see, have little to expect from them when they are grown up.

§ 152. Another characteristic of the family of the wise and sober peasant is the small number of his children. The law of succession being what it is, and the prevailing gospel being, "Every man for himself," it follows that if a man has many children his property, for which he has so striven, will be scattered at his death, and much of it be swallowed up by the legal expenses of partition. Besides, previously, there will probably be intolerable pinching if he is to find the marriage portions that his respectable position requires. So it is a good thing to have not more than two children, and best to have only one. For the Christian doctrine of children being God's gift and marriage a consecrated state, they consider antiquated, and cast the Christian teaching on morals to the four winds. The civil law indeed, where it can detect and punish, they duly respect, and thus refrain from infanticide ; but only to effect their end by the

abominations of artificial sterility. This practice has spread like a cancer, and its progress and prevalence can be traced by the progressive decline of the birth-rate. So it has come to pass that in much of France the births, although the rate of mortality is not high, are not equal to the deaths. Part of the decline of the birth-rate may be due to the general spread of licentiousness and the growth of great towns and their vices. But these evils are not peculiar to France, nor is there any disproportionate number of unmarried people. It is the small number of children to each marriage that is her characteristic, and is at once a political weakness and moral opprobrium.[1]

[1] Before the First Revolution the number of children *per mil* has been reckoned at 312; in the decade 1849–59 the proportion had sunk to 284; it was only 277 in 1866, and has lessened since. In the first sixty years of this century the number of children to a marriage sank from nearly four to little over three (Périn, *Richesses*, Bk. iv. ch. 3). The birth-rate for fifteen years before 1785 has been reckoned at 38 *per mil.* In the present century, from

1800–10	the rate was	33
1811–20	„	„	32.15
1821–30	„	„	30.9
1831–40	„	„	28.9
1841–50	„	„	27.4
1851–60	„	„	26.7
1861–68	„	„	26.4

—(*Le Correspondant*, 23d July 1878)—

and now I believe it has sunk below 26. Remember for comparison that the birth-rate of Great Britain, Prussia, Austria, Italy, and Spain in the decade before 1870 was from 34 to 38 *per mil.* But the population of France increases much faster than you would think if you only looked at the surplus of births over deaths. For there is a great surplus to be added of immigration over emigration. The immigrants are mostly Belgians and Italians.

§ 153. The other type of the after-Christian rural population puts pleasure first and acquisition second. Drink, gambling, and debauchery are the pleasures most appreciated and attainable. Sunday afternoon is the great time for the public-houses. "Formerly," says M. Callay writing in 1861 (*Ouvriers des deux mondes*, iv. p. 72), "recreations were held in the open air; they cost little, and so were simple and joyful. The villages showed a cheerful aspect now unknown: in one place you saw numerous groups of men playing at *fers* (quoits?); in another place women playing skittles (*quilles*); while the old men in the village square forgot their infirmities and remembered their young days as they watched the dancing of their grandchildren. Nowadays these games have been given up, and the workmen prefer to spend Sundays and holidays in the public-house, seated with a bottle before them amid the fumes of tobacco and alcohol." Previously Le Play had observed (*Ouvriers européens*, v. p. 422)—"In France the class that does most injury to the workmen is that of the publicans and low lodging-house keepers and innkeepers. With a skill you could scarce imagine if you had never watched it, they turn to account the thoughtlessness, passions, and vices of their victims. In our new society the charge of the thoughtless workmen that was taken in the olden time by the corporation, the employer, or the priest is taken by the publican (*cabaretier*)."

§ 154. The treatment of the young is in keeping with the rest. The children early learn what are the chief ends of life. Example and precept teach them to forget with all practicable speed the lessons of the Catechism; and if they are so attached to the ways of childhood as to wish to fulfil the duties of a Christian (for example, to go to church on Sunday morning), their parents grudge them the time. Moreover, as no respect is paid by their elders to the innocence of childhood, they become habituated to filthy conversation and songs; no precaution is taken to keep them from bad companions, and thus, when they pass from childhood to youth, they are exposed to fall into the worst excesses. And temptations abound. For it is not as in the old times, when the young people used to meet on Sunday after mid-day in the public square to dance, every one going when service-time came, to church, and every one going home early in the evening. "Now they only dance in saloons where the parents can exercise no surveillance; and young fellows who have been all the afternoon in the public-house will not be over modest when the evening comes, in their words and conduct. And when they do dance in the open air, namely, on the days of the village fair (*fête patronale*), it is by lamplight, to imitate townsfolk, and the dancing only begins when it is dark, and goes on till midnight (*Ouvriers des deux mondes*, iv. p. 73). Yet it is not held shocking for parents to let their daughters go to these dances,

or worse still, go to those of a neighbouring village, returning at what hour of the night and with whom they please. It is not surprising, therefore, to hear complaints of the precocious immorality and the noisy effrontery of the young. And as nature is allowed its way, the phenomenon of natural selection can be observed. Thus in the poorer regions of Champagne the grasping and sharp-witted characters I have previously described secure bit by bit most of the land; the weaker lose their land, if they have any, and work as labourers, with the ignominious title of "*petites gens*," for the stronger peasants; the worst and weakest are eliminated, and go chiefly to the plains of Picardy, where they work on the great beetroot sugar estates; and without any human influence to restrain them, and lacking faith and morals, live in indescribable debauchery. This is the extremity of rural degradation; but the peasantry they have left behind, excluding, of course, the scattered remnant who keep the old religion, although by no means simple pleasure-seekers, still have broken to pieces the code of Christian morals.

§ 155. Sometimes even in this life we reap as we have sown; and among the French peasantry the aged parents taste the bitter fruit of their own misdeeds. Their own grey hairs receive no more respect than they have shown to the innocence of childhood. The children, encouraged to despise religion, do more, and

despise their father and mother; and the law of succession and of equal and compulsory partition gives them opportunities of showing their feelings. In the region of Laon, "when one parent dies, the children, in virtue of their legal rights, despoil the survivor, taking away the furniture (*mobilier*), and having it sold by auction. The old mother is driven from her home, and obliged to lodge for periods of three months [with her children], faring ill at the hands of a son-in-law or daughter-in-law, laughed at by the grandchildren, . . . and longing, as a blessing from Heaven, for the moment when death shall take her from a family where she is an encumbrance." The same thing happens when the parents, worn-out with age, toil, and privations, divide their goods among their children, reserving for themselves a pension for life. For if the children are got to fulfil their agreements, they fulfil them in a manner always most offensive, and do not hide their wish that the obligation may soon cease; so little have the sweet affections of the family been nurtured in them in their youth, so completely has natural affection been stifled by covetousness (*Ouvriers des deux mondes*, iv. p. 69). Often indeed these children will find pretexts to evade giving the money, or board, or lodging they have promised; the father is like a troublesome creditor, and is ill-treated accordingly; and especially when there are money difficulties he becomes simply a nuisance, and is let know it; sometimes they call him *Monsieur vit tou-*

jours, that is, Mr. Never-die; sometimes the wretched man is driven to put an end to his miserable life.[1]

§ 156. The French Law, avowedly directed against the union and permanence of great families, acts with still greater force to break up the families of the poorer classes, as the costs of partition as well as of lawsuits are relatively greater. The poorest families suffer most. Thus during the year 1850, according to an official report, 1980 sales of less that 500 francs each realised 558,092 francs altogether, whereas the total legal costs amounted to 628,906 francs (Le Play, *Réforme Sociale*, iii., Appendix C.) So all was swallowed up. The situation of orphan minors is peculiarly disastrous. Le Play (*Ibid.*) gives a melancholy but not exceptional case of four young children left orphans with a little property worth 900 francs; the forced sale realised only 725 francs, and the legal expenses, of which he gives every item in detail, reached 643 francs. So the poor orphans, when the funeral expenses (42 francs) and some other small charges were paid, had left between them just 30 francs 37 centimes. This is a case to excite unmixed pity; but in many other cases the sufferings of the peasantry are as much their own fault as that of the law. For they are in extreme contrast with the Chinese, not only in the lack of filial piety, but in

[1] See the testimony of Pinart, Bonjean, and Legouvé, cited in Appendix A. of the third edition of Le Play's *Organisation du travail.*

the lack of joint families and fraternal union. Far from keeping together in harmony, they often dispute the justice of the partition, and in consequence a large proportion of civil causes, as I have already noticed (*supra*, § 114), are concerned with matters of succession. Often when the old parents are yet alive, but have already divided their property, disputes arise among the children; and then the parents are likely enough to be the first victims. In some regions the extraordinary division of property into innumerable scattered plots instead of conterminous farms increases the occasions of quarrels and lawsuits.[1] But this very division is as much an effect as a cause of the dissolution of families and discord among brethren; and where there is no such *morcellement* (for it is a local malady) we shall still find the prevailing motto, "Every man for himself," and shall look in vain among After-Christian society for union and peace.

Nor let it be said that I take the bad among the After-Christians and contrast them with the good

[1] Such a village *à banlieue morcelée*, in the department of Aisne, is described by M. Callay in *Ouvriers des deux mondes*, iv. p. 37 *seq.* The total surface of the commune, amounting to something like 13,000 acres (5292 *hectares*), was divided in the year 1861 into 6786 parcels, owned by 776 persons, of whom

545	owned from	1	to	10	parcels.
101	„ „	10	„	20	„
77	„ „	20	„	50	„
29	„ „	50	„	75	„
9	„ „	75	„	100	„
15	„ over	100			„

among the Christians. For I am considering principles of moral action; and these French peasants are not black sheep among the After-Christians, but white and fleecy members of the flock; for they act on principle, and follow their premisses with excellent logic to their conclusion.

III.—The North-Eastern Americans.

§ 157. The change that a hundred years have witnessed in the family life of the French peasantry is not more startling than the revolution in America, in parts of which the Christian family has been almost wholly superseded by the After-Christian.[1] The North-Eastern States of the American Union, and the New England States in particular, are the chief seats of the new order of things. In New England at the time of the separation from the mother-country the Christian family flourished, not indeed in its full perfection, but in many of its leading features (*cf. supra*, §§ 124, 125), among the Puritan inhabitants. Home life was interwoven with religion, parents were greatly reverenced,

[1] I have chiefly followed the instructive work of Claudio Jannet, *Les États-Unis contemporains*, third edit., Paris 1877. Also a series of articles on America in *The Month*, 1884, especially in September and December 1884, on American Public Schools and Cheap Literature.

morals were good, marriages generally early, and also permanent; for divorce, though not unknown, was very rare, and generally required a special law in each case; and all schools and colleges were deeply and thoroughly religious.

How completely this has all changed will be seen from what is to follow. The further question, indeed, why there was this change, it is not in my province to answer, any more than to say why the Christian family has been superseded in Palestine or Picardy. In all cases, indeed, the immediate cause of the change is that Christian doctrine is superseded; for then the Christian family cannot stay. Thus the difference between France and America—for there is a difference—is not in the mental change having come first and the change in family life second; for that must always be the order; but in the particular application of the new views to practice. In France the evil had its centre in the father, who was irreligious, or at least disabled or demoralised by a bad law of succession; and the schools in vain sought to stem the corruption of the home; and the women were more Christian than the men: whereas in New England the laws of succession are by no means bad, but the schools have been the centres of corruption, which the influence of the home has not been enough to stem; divorce, scarce known in France, has played a great part in America; and the women have cast aside the austere dogmas of Christianity as completely as the men.

§ 158. The "public schools" of America have for many years been the boast of the country; nay, worshipped with a blind devotion as a sacred thing, like the African's fetish; a matter not of reason but of faith. These schools have much resemblance to the Board Schools in England, being schools provided by Government out of public funds for elementary instruction. But there are some differences. The American schools are more thoroughly "gratuitous," that is, the parents pay no school fees and have to provide no books, paper, or other requisite apparatus; all is paid for out of the funds of the particular State, or out of public lands with which the schools have been endowed. The sums annually voted for the support of these public schools reach for the whole Union the immense amount of eighty million dollars (sixteen million pounds). Moreover, they are frequented by a much larger proportion of the population than the English Board Schools; for the distinctions of class are less marked, and all the middle ranks, nay, the children of many bankers, lawyers, and physicians, attend the "public schools," leaving a much smaller number than in England at the top of society, who provide out of their own pockets for the private education of their children. Further, there are no other elementary schools that receive Government help, like the so-called denominational schools of England. There are a certain number of Catholic elementary schools, and

some for the German Protestants; but these get no farthing of public money; and as there are no other elementary schools to speak of, the great bulk of the American youth receive their early training in the public schools. These are mostly without any definite religion, and have been so for years. Sometimes there is Bible-reading, sometimes a hymn sung or even a prayer said, but no serious attempt to teach any religion beyond a feeble and profitless Deism. The knowledge of this world indeed is well taught, as far as it can be taught, at school; the technical methods and results are, I believe, excellent; and if we hear bitter complaints of the teaching unfitting for the rough work of after-life,[1] it is unfair to blame the schools for giving the culture they are meant to give, and for giving it so well.

[1] See the lamentations in *The North American Review*, vol. cxxxviii., February 1884, especially pp. 189, 190—"The present system, while it fails to fit the great mass for real life, actually trains large numbers into a positive distaste for what must be their real life-work. . . . Witness the crowds of working girls in the great cities, not willing to fill a position of honourable service in anybody's family; not willing even to marry an honest man and make a home for him, unless he can keep her in idleness and furnish her with servants; choosing rather to jostle one another for a place behind a counter, though on starvation wages, which must be eked out even at the price of womanhood and honour. Witness the crowds of young men surrendering the home that might be earned by the 'labor' they think themselves educated 'above,' and in its place taking a garret, and amusements of which they had better be ignorant; seeking for 'positions' already too full; while most of them are not really educated into the ability to do anything particular, and do it well."

§ 159. But I am concerned with moral and not technical results; and these well-appointed, well-attended, but godless schools have to answer—for they alone can be taken as an adequate cause—for the change that has come in America over the morals of the young. Now precocious immorality has become a characteristic of North-Eastern America. The schools themselves, where boys and girls are generally mixed—and this with mere lay teachers among a population anything but simple, and with precautions anything but efficacious—these schools themselves are often the centres of moral corruption. The circulation in most of them of obscene books and prints is an evil now of long standing and unremedied; the occasional disclosures to the public of frightful disorders cannot shake the infatuated faith in the After-Christian dogmas on the nature and rights of man;[1] and the combination of "free schools" and a "free press" lead the American boy or girl to an almost inevitable shipwreck of faith and morals. To judge of the free press, let us hear what a Protestant clergyman of America writes on the foul literature of his country—"Tons of the murderous rubbish flood the market. . . . This sort of literature aims low for the undergrowth. It is adjusted to the level of the nursery, the playroom, the school, the shop—any-

[1] Some fourteen years ago (in 1871) the investigations of Professor Agassiz were made public, how a large proportion of the prostitutes traced their demoralisation to the public schools. See *The Catholic World*, October 1873, pp. 5, 6.

where, everywhere where boys and girls may be encountered. Not only is literature steeped . . . with the fatal contagion, but art is become siren, . . . so that the unlettered even may be assailed. . . . On ten thousand news-stands, on the street corners of all cities, villages, and hamlets, these alluring lascivious cartoons and obscene cuts . . . are thrust full in the faces of little children. You shall find them in groups crowded about these infested windows and booths, drinking ignorantly and greedily of this damning unwisdom that poisons flesh and spirit together. It is peddled at railway stations, hawked persistently through cars and steamboats. Every other boy has the contraband stuff hidden in his pocket or under his pillow. The labouring girls, that swarm the great cities in underpaid wretchedness, stimulate their dreary minutes with the illicit novel or newspaper. Even tradesmen have caught the trick of utilising this influx of uncleanness, and float their merchandise to a wider market through the service of filthy pictures."[1] These are the attractions of life; and what is there in the training and teaching of the public schools that should hinder their enjoyment? From the prison-house of dogma and from the gloom of asceticism have we not at length been set free?

§ 160. Many of the young, mere children, having

[1] *The Churchman*, 21st June 1884, cited in *The Month*, December 1884, pp. 514, 515.

set at naught the laws of God, take a further step and set at naught the laws of man. The boy or girl is fed from an early age on tales and police reports of crime as well as of immorality; and the knowledge of evil induces imitation. Twenty years ago most of the boys sent to the New York Reformatory had been taken for pilfering, but now for every sort of criminal offence. Of tramps (and the tramp is a shocking character in North America) a surprising number are under sixteen or seventeen years old; and the following details, recently given, and referring to Boston or New York, are instructive:—"There have been arrested during this time [within the last nine months] four bands of youthful bandits. One gang of seven were all under sixteen years of age; of one gang of ten, all were under seventeen; of one gang of nine, all were under ten; and of one gang of seven, all were under twenty. Those of the gang of nine under ten years of age, just before their arrest, had passed a resolution at their headquarters that each one should poison his own mother. One of the boys relented; . . . he thought he would practise on the servant girl. She heard him discussing it with one of his companions, . . . and caused the arrest of these young criminals. Almost all these young boys attributed their downfall to the reading of sensational stories."[1] In Chicago, which, being a great town, may perhaps be considered morally in the North-East,

[1] Cited in *The Month*, December 1884, p. 516.

though physically in the West, a Citizens' League for enforcing the laws, especially those against drunkenness, found about the year 1879 that in their city more than 30,000 boys and girls frequented the liquor saloons, that 7000 boys and girls were arrested in one year, and that more than half the business of the courts was taken up with the trials and punishment of these young delinquents.[1] There has been a great reduction in drunkenness by the efforts of the League; and they claim to have diverted over 20,000 children from the liquor bars. But a reform league cannot be kept at permanent high pressure; whereas the irreligious public schools and free press remain permanent forces in the work of corruption.[2]

§ 161. The outbreaks of youthful crime are but the more extreme signs of an habitual evil, the premature

[1] See Mr. William Tallack's letter in the *The Times*, 28th May 1885.

[2] See some unsuspected testimony on the public schools "developing crime cause," cited in *The Catholic World*, October 1877, p. 65. The growth of crime and vice is noted by Mr. Grant White in an article, "The Public School Failure," in the *North American Review*, December 1880 (vol. cxxxi. p. 546). How futile was the attempted answer to this article in the same Review is well pointed out in the *Church Quarterly Review*, July 1881, vol. xii., in an article, "Failure of the Common School System in America." It may be well to add, I am not saying or implying that a knowledge of the "three R's" is the *cause* of crime; it is no more so than is the ignorance of them. The real cause is our depraved nature—our anger, greed, lust; and these will break out into crime under "favourable" circumstances both among the literate and illiterate, unless they have been brought into subjection by a religious training.

independence of the young. Rousseau's theory is admirably followed, and parents and children with all possible speed shake off their obligations to one another, and return to their natural liberty. The almost unlimited powers of the father to dispose of his property by will, is of no avail to secure his authority, where fortunes are easily made and lost, where public opinion condemns the exercise of parental power, and where at school the young are so taught as to think themselves capable of judging all questions, and of guiding their course of life without being controlled by their parents. Boys and girls of twelve or fourteen will write to the newspapers on questions of school teaching and discipline, and their letters are treated seriously.[1] Moreover, a newspaper press has sprung up entirely written by boys and girls from thirteen to eighteen years old; an inquiry made in the year 1877 showed that in the space of a few years nearly 5000 newspapers of this kind have been published in the United States and Canada, some having

[1] Father Clarke relates the following anecdote in *The Month*, September 1884, p. 107:—"A little boy of nine years old presented himself not long since at a large Catholic college in one of the American cities, and asked for the Prefect of Studies. When that official presented himself the child informed him that he intended to study the Latin language, and would like to see the prospectus of the course of studies pursued at the college. It was handed to him with such explanations as were possible to such a youngster. He sat and read it for some time with a critical eye, and then quietly gave it back, with the remark, 'Don't feel like coming to your college. Good morning, sir,' and off he went."

a large circulation, and generally marked by extravagant sarcasm. And when these boys and girls grow to be young men and women, they appreciate and act on the doctrine that the young alone are able to assimilate the latest conquests of science and walk in the van of progress, and that the young therefore, and not the old fogies, should have as much influence as possible. No wonder, then, that you need not consult your parents before marriage, much less ask their consent. No wonder that the life of a farmer in the North-Eastern States is despised, and that the young Americans flock into the town, without regard to their aged parents or to the home of their childhood. No wonder that an observer accustomed to the domestic life of the Spaniards, looks in vain among the Yankees for family affection.[1] For in the main there is as little of brotherly love as of filial piety; and when the parents are dead it is common for brothers to become completely strangers to one another.

§ 162. America is the classical land for the emancipation of women; but, be it well understood, emancipation not in the Christian sense of securing their rights to the weaker and gentler sex by honouring virginity, by making marriage a holy and perpetual state, and by assigning women the supremacy in works of mercy; but in the un-Christian sense of

[1] *Revista contemporanea*, Madrid, June 1883.

assimilating them to men (see *supra*, §§ 108, 109). I have already spoken of the effects on morals of the education of boys and girls in common; and by giving both the same training the girls run the risk of serious physical injury. How far this injury is common is hotly disputed, and I am not competent to enter on a physiological discussion. Nor, again, will I give as typical the excesses of individuals and the language and conduct of certain masculine women, or such ill-guided movements as the Women's Whisky War in 1874, when troops of women camped round the liquor shops to reclaim the drinkers and the publicans. The real point is, that many of the women, by their irreligious education, are rendered unfit for the duties of wives and mothers. This evil, among others, is set forth in the following passage from an American magazine:—"How fearfully the family relation has been impaired in America all intelligent observers know. The laxity and confusion of the marriage laws; the shocking frequency of divorce; the publicity given to scandalous and indecent investigations; the prevalence of the crime of infanticide; against which the press, the pulpit, and the medical profession have long exclaimed in horror; the growing inability or unwillingness of American women to bear the burden of maternity; . . . the breaking-up of homes; the licence allowed to the young of both sexes—all these things are the appalling symptoms of a deep-seated social disorder. . . . The mother no longer lives in

the midst of her children. . . . Children are educated by hired nurses, and before they are full-grown emancipate themselves from the control of parents whom they have never been taught to respect and obey. . . . The hotel and the boarding-house are driving out of existence those model homes which were once the glory of America. What else could we expect? It is the woman who gives character to the household, and the tendency of our time is to remove woman from the fireside and set her upon the platform" (*The Catholic World*, July 1876, vol. xxiii. p. 461). Only mark, it is not so much the being on the platform that is the cause or sign of evil, much less any abundance of culture and learning, but the love of pleasure and ease, and the lack of the restraints and supports of religion.

§ 163. As might be expected, if all is to be so free and easy, the men on their side have been emancipated in their relation to women. How marriage itself has been affected we shall see directly; but, apart from this, the reins have been let loose and men have followed their passions. True, there are excellent laws in most or all of the States against seduction (though absurd laws if men and women are alike). But they do not prevent the deluge of obscene literature, nor the great cities being hotbeds of every abomination. Never, perhaps, has vice been so prevalent and precocious. A priest in one of the largest American

cities, when asked by a traveller on the state of morality, answered that in all the city there were few boys of thirteen or fourteen who had not already lost their innocence. Pittsburg is said to contain more bad houses in proportion to the population than any other city in the world, and the age at which boys begin to frequent them is scarcely credible. Cincinnati is not much better, and there are sad accounts in Chicago of the unblushing effrontery of open vice.[1]

No wonder that we have complaints that "marriage is ridiculed, conjugal affection put down as antiquated, home-lovingness pitied as old-fashioned, family reunions voted dull, and, as a natural consequence, youth is more or less alienated from the unfashionable circle."[2] No wonder that among the richer classes the After-Christian French, with their late and mercenary marriages, have many imitators. No wonder also among this new generation of Americans, with their shallow smattering of all knowledge and their deep acquaintance with all vice, that there is an audience ready to receive the most childish falsehood and the most ribald blasphemies against Christianity and against God, with continual laughter and applause.[3]

§ 164. Among the North-Eastern Americans marriage is liable to the two notable maladies of dis-

[1] *The Month*, July 1884, p. 371.
[2] *Catholic World*, March 1873, vol. vxi. p. 782.
[3] *The Month*, May 1884, pp. 48, 49.

solution and unfruitfulness. The first indeed, namely, divorce, is common in many other parts of the Union, and is so frequent as to reduce marriage almost to the level of temporary cohabitation. No less than sixteen causes of divorce are generally recognised by the laws of the different States,[1] namely—(1) bigamy; (2) adultery on the part of the wife; (3) voluntary desertion during one, two, three, or five years; (4) prolonged absence during five years; (5) insanity; (6) cohabitation of the husband with a coloured woman; (7) vagrancy; (8) violence; (9) gravely insulting language; (10) habitual drunkenness or opium-eating; (11) imprisonment for crimes determined by the laws of the particular State; (12) impotence; (13) refusal of the husband to give his wife the means of subsistence; (14) refusal of the wife to follow her husband; (15) licentiousness on the part of one of the married pair; (16) joining the Shakers, who practise continence. In Kentucky, for a husband to announce in the newspaper that he will not pay his wife's debts, is a sufficient ground for her to claim divorce. In some States the matter is left to the discretion of the court, as in Maine (previous to 1883), "when the judge decrees it reasonable and proper, conducive to domestic harmony, and consistent with the peace and morality of society." Only a very few States allow judicial separation, and where allowed, it is little used. Moreover, the restrictions in some States, such as a delay before

[1] I follow Jannet, *États-Unis*, third edit., i. pp. 207–210.

making a fresh marriage, can, I think, in great measure be frustrated by change of residence. Thus it is dubious whether frequent divorce will be really checked by the recent legislation in Maine (given in *The Times*, 5th September 1883), restricting the causes of divorce, forbidding the petitioner to marry again within two years, and forbidding the respondent ever to marry again except with permission of the Court.

§ 165. What complicated legal scandals can arise from the diversity of the marriage and divorce law, can be seen from the following case, reported in December 1880:—"William A. S—— married a woman in Ohio, and subsequently removed to Iowa; and there obtained, through a Chicago lawyer, a divorce. On the day of his divorce he married another woman in Iowa; but the courts of that State, being appealed to, declared the divorce illegal and the re-marriage void. Yesterday the Chicago court held the divorce valid according to the laws of Illinois. Under these cross decisions S——, who has children by both wives, cannot legally live with either within certain territorial boundaries, though he may legally live with his Ohio wife in Iowa, and with his Iowa wife in Illinois." It is not surprising, under such circumstances, that the newspapers treat morals and marriage with levity, and that they facilitate divorce by the daily insertion of advertisements like the following:—

"Absolute divorces legally obtained in different States. Desertion, &c., sufficient cause. No publicity. No charge until divorce is obtained. Advice free. ——, *Attorney*, — Broadway."[1]

On the actual number of divorces a few figures will suffice. In Massachusetts the ratio of divorces to marriages in the years from 1869 to 1873 was 1 to about 42, but in the years from 1874 to 1877, 1 to 23 (*The Tablet*, 11th September 1880). The most recent figures I have (from *The Times*, 11th April 1883) show, according to the Secretary of the New England Divorce Reform League (and there was need of such a league), that in Massachusetts the ratio was 1 to 21, in Vermont 1 to 13, in Connecticut 1 to 10.4, in Rhode Island 1 to 10, in Maine 1 to a little over 9, in New Hampshire 1 to 9. The population of Connecticut increased in thirty years something under 70 per cent.; the divorces increased nearly 500 per cent.; and the increase and prevalence of divorce among the After-Christian population is greater than it seems; for there is a large and growing Catholic population among whom divorce is never practised; and thus in reality the ratio of divorces to marriages among the After-Christians of Connecticut (for example) is probably the startling figure of 1 to no more than 8.

§ 166. Logic is said to be remorseless; but this term of reproach only means that people dislike having

[1] Cited in *The Catholic World*, March 1873, p. 782.

to confess that they are in the wrong, and have started from a false principle. Now the Yankee population are proverbially sharp-witted, and are practical logicians. If married people fail to agree, why should they not part company and each seek a pleasanter companion? Why not change wives or change husbands, as you do houses or servants, according to your requirements for the moment? On certain grounds we certainly should be allowed to; and on the same grounds, why should married people have children, if children are an encumbrance? Now in New England they are an encumbrance, especially to the mothers: it is a trouble and expense to bring them into the world, and a trouble and expense to rear them; they are incompatible with the pleasures of society and a proper toilet. And if one or two are bad enough, to have many is intolerable. Thus the New Englanders reach the same conclusions as the After-Christian French peasantry, and practise artificial sterility: so little has race to do with these matters, and religion so much. The evil, first noticed about the year 1850, has gradually grown up, and is now notorious. The Catholic bishops who met at the Council of Baltimore in 1869, judged it needful to send a warning to all their flocks against the growing and unnatural vice of destroying children before their birth. The legislatures of New York and Illinois in 1872 and 1873 enacted penalties against those who practised or aided in such guilt. And Congress sought to punish the sellers of

wicked drugs. Recently the Secretary of the Sunday-School Association of New York County tells us—"There are lots of these big churches on Broadway and Fifth Avenue, with from eight hundred to fifteen hundred members, who cannot show a hundred Sunday-school scholars. 'Why is this?' you ask. Well, I guess rich people have about quit having children. And even middle-class Christians don't seem to do much better."[1]

§ 167. The prevalence of these habits can be measured by figures, the result of various inquiries. Thus in 1870 in New York among strangers there were more births by 8870 than deaths; among the native Americans there were more deaths by 7000 than births. A report on Rhode Island showed that the annual birth-rate among the Americans was only two in the hundred (or 20 *per mil*), less than half the birth-rate among the immigrants. Figures from Massachusetts from 1876 to 1881 show that during these six years the deaths among native Americans exceeded the births by 29,796, while among the foreign-born population, births exceeded deaths by 87,824. The statistics of the schools show the deficiency of New England in children. Massachusetts has a much larger population than Kentucky, yet Kentucky has nearly twice as many school children. The proportion of chil-

[1] Cited by Bishop M'Quaid, *The North American Review*, February 1883, vol. cxxxvi. p. 149.

dren of school age to the total population is 31.4 per cent. in the South; in New England only 19.5 per cent. True, some of the difference is due to the emigration of young men from the North-East, leaving old people and spinsters behind. But still the great cause remains, not so much in the fewness as in the unfruitfulness of marriages. As the *Chicago Tribune* says—"One or two children at most are the rule in families, which two or three generations back were large enough to absorb nearly all the scriptural names that are euphonious."[1]

§ 168. Such is family life among the After-Christians of America. But, again, let me point out, lest I be accused of exaggeration, that only a portion of the American population is affected. Multitudes of native American farmers in the West and the South, multitudes of foreign-born inhabitants of the North and East, retain more or less of the Christian family; and the excellence of many of the American laws, especially the Homestead Exemption Laws (*supra*, § 118), might commend them to our imitation. There are many powerful elements of good in the great Republic; and the Revolution which separated the United States from England, had nothing in it of a revolt against Christianity. But I have not been attempting a description of America; what I have attempted is to describe the nature and the immediate causes of

[1] Cited in *The Times*, 1st July 1884.

one phenomenon, namely, the After-Christian family. I will but add that as long as the public elementary schools remain what they are, the spread of the After-Christian family among those who have frequented them is almost certain.[1] The happy home-life of old days must go. It might be pleasant to keep it when you have dropped the dogmas, but you cannot; for it soon follows after them and disappears.

§ 169. Look, for example, at the youth of Australia, in particular Victoria, who have been trained, or, rather, been let grow in the new fashion, with moral discipline and religious teaching both reduced to a minimum. An observer, who is all the more trustworthy because he does not see the significance of his testimony, describes the (to us) extraordinary laxity of discipline both at home and at school; how boys lack respect for any one or anything; how public opinion favours the self-willed child; how childish disobedience passes into disrespect towards parents, and disrespect into want of affection; how any intimate union between father or mother and the grown-up son or daughter, is most rare, the motto of the young Australian being, "Every one for himself, and devil take the hind-

[1] The serious Protestants in America have long recognised the need of religious education and the evils of the public schools. See a report of the year 1865 given by Claudio Jannet, *États-Unis*, ii. pp. 81, 82, and an article in *The North American Review*, August 1883, pp. 99–117.

most."[1] Again, a recent work on South Africa marks among the English colonists the general prevalence of indifference or hostility to religion (J. S. Little, *South Africa*, 1884, i. pp. 36–38), and also of the absence of parental authority, precocious independence, and in Natal a rude and insolent race of boys and young men, who fill the stranger with disgust (*Ibid*, pp. 50, 75–76, 77–79). Yet the writer does not observe how the one phenomenon is connected with the other. But they are. And the youths of South Africa, as well as of Australia, follow the example of the Americans; and you will soon find they "don't feel like" doing anything that is against their own sweet will to do. The march of mind indeed is not everywhere equally rapid, and we cannot say that in South Africa or Australia "they have about quit having children," or that for every ten or twenty marriages there is a divorce. Both phenomena indeed can be observed, as we have seen (*supra*, §§ 133, 139), among the Moslem After-Christians, and also in different parts of Europe. I have given a European example of the one (*supra*, § 152), and will now illustrate the other, namely, frequent divorce.

§ 170. Among the so-called Protestant population of Switzerland—the bulk of them are really not Christians at all—divorce has reached the New England

[1] R. E. N. Twopeny, *Town Life in Australia*, London 1883, pp. 83, 84, 88, 89, 101, 102.

level. It is becoming quite common, we are told, among the working classes, for people to marry on the understanding that if, after a trial of a few months or a year or two, they grow tired of each other, they shall make a joint application for divorce; for such application is taken by the courts as proof of irreconcilable incompatibility of temper, and this is ground sufficient for divorce. In the whole Confederation in 1881 the proportion of divorces granted was one to about every twenty marriages, or 5 per cent. But this includes the Catholic cantons and population, and the proportion is really much greater, as divorces are rare in the Catholic cantons. Thus there were none in Uri, Obwalden, Nidwalden, and Appenzell-inner-Rhoden; only 0.18 per cent. in Valais, and 1.48 in Lucerne; but 8.68 in Zurich, 8.79 in Geneva, 9.22 in Thurgau, and 13.18 in Appenzell-ausser-Rhoden. And this great frequency of divorce has arisen, I believe, only recently, in particular since the legislation of 1875, that made it easy throughout the Confederation both to marry and to dissolve marriage (*The Times*, 13th September 1881 and 27th August 1883). And the ominous decline of the birth-rate from 33 *per mil* in 1876 to 29.8 in 1881 seems to point, if we again separate off the genuine Christian cantons, to the spread of sterility among the After-Christian inhabitants. In Geneva the birth-rate in 1881 was only 23.7, the lowest in the Confederation; at the other extremity the rate in the thoroughly Christian canton

of Appenzell-inner-Rhoden was 34.90 (*Times*, 28th January 1880 and 6th October 1882).

I might add other illustrations, for example, of the divorces in Berlin and Saxony. But I have said enough about foreign countries, and am bound to look whether in our own England a great example of the After-Christian family is not to be found.

IV.—The English Labourers.

§ 171. There is no need to discuss the question, which is to a great extent one of words, whether England is a Christian country or not. There are multitudes of English families, especially among the upper and middle ranks, that display with more or less completeness the characteristics of the Christian home; but there are multitudes also that are in fact, and often in name also, un-Christian. Now I am concerned at present only with these last; and I think they include the majority of two great classes, namely, the agricultural labourers, and the lower grades of workmen, also known as labourers, in the great cities. Let us look briefly at both these two classes.

The family life of most agricultural labourers in most districts of England has the two marks that are incompatible with the Christian family, namely, habitual

undutifulness and habitual immorality. The first, in particular the absence of filial piety, has long been well known to all who have had to do with the administration of poor relief; and the following picture, which is not overdrawn, will show others the nature of the evil. Mr. W. H. Roberts, in *The Fortnightly Review*, April 1875 (vol. xvii. pp. 519, 520), after observing how among the English agricultural labourers, unlike the Irish poor, there is scarcely a trace of regard for the aged, especially aged parents, goes on to say—"Abundant evidence might be adduced . . . that, . . . whatever their circumstances may be, the children of worn-out agricultural labourers will do nothing for them except on compulsion, having a fixed idea that that duty pertains solely to the parish. Repeated instances have come under the writer's own observation in which unmarried sons, earning good wages, . . . have not only not contributed towards the support of their pauper parents, but have actually lived with them rent free, and filched from them all they could of the parish allowance. Not even the smallest offices of filial duty will they render without being paid. When, as frequently happens, an out-pensioner of the parish lives with a married son or daughter, if the poor old creature falls ill, an instant demand is made at the Board for an allowance for nursing. As a rule this demand is granted; but when exceptions occur, it is not an unheard-of thing for these unnatural children to send the aged sufferer at once to the work-

house. . . . The agricultural labourer shows . . . the same desire to shirk his obligations towards his orphan grandchildren. . . . The cases the writer has in view are those in which the grandfather can be shown to be in a position to do something. . . . The poor children will be brought to the workhouse by the grandmother, who will declare before their faces, and amidst their tears and sobs, that 'she can't keep 'em, nor won't,' and that she will leave them there."

§ 172. And why should she keep them when she has nothing to expect from them when they are grown up but neglect or abandonment? And, again, what else can be expected of children, when they have never been taught how to live a good life in their homes, have never been apprenticed to the arts of obedience and reverence, of kindness and affection? "You must like *somebody*, don't you?" Dr. Jessopp asked of one Daniel, a rustic youth of nineteen.[1] But he answered: "I dunno as no one ha' done anythin' for me as I should loik 'em for. There's lots on 'em as don't loik me particler, and there's lots on 'em as I shouldn't moind where they went to. I ain't a-goin' to loik them as don't loik me!"

These are just like the sentiments common among the French peasantry. And in rural England, like France, the home has been the centre of evil, not, as

[1] As he narrates in *The Nineteenth Century*, October 1883, p. 599, in an interesting but melancholy article on "Clouds Over Arcady."

in America, the school. No doubt the two former countries have begun to imitate the godless schools of the last; but at any rate in the rural districts of England the schools have hitherto helped rather than hindered religion and morals. The source of vice has been the godless home. For a great portion of the country folk can be said, I think, altogether to lack religion; and if the churches of the Establishment are empty, so too are the chapels of the Nonconformists. These rustics are above the squabbles of bigotry, and in the issue of the strife of creeds they will take less interest than they would in a dog-fight.[1] And mark, it is the godlessness, the religious and not the physical deficiency of the homes, that is the cause of moral evil (or what Christians call such). No doubt the overcrowding of cottages, which has again and again been pointed out during the last forty years, and still remains in great part unremedied, is the immediate occasion of many shocking things—of the loss of modesty, of horrible incest, and other evils, all of which are well known. No doubt, also, if the population could be decently housed there would be much less of these evils. But still there would be no rooting out of them, nothing to prevent some other occasion of them arising. Surroundings are not everything; and, remember, the most virtuous population in Europe have lived crowded into miserable

[1] *Cf.* Dr. Jessopp in *The Nineteenth Century*, October 1883, pp. 600, 601.

hovels, from which even an English agricultural labourer would shrink. But these labourers, lacking spiritual force, have been the slaves of their physical surroundings.

§ 173. Thus the man, being the stronger animal, and with no fear of punishment, social or legal, to hold him in check, often treats his wife with brutality, and sometimes his children. And the public-house forming the one recreation, the one interest, left of all that used to break the monotony of life, to the public-house he goes. Meanwhile he can hardly be expected to attend much to the moral training of his children. Still it is startling how amid the green fields they live a life as though they were in the streets of a great town. In play-time, just as you must look for the father in the drink-shop, so you must look for the children in the gutter. Games are becoming a thing of the past; inclosures of common land, notably of roadside strips, have destroyed many a playground and cut off many a chance of boyish rural sport; while the condition of the labourers, often with scarce a strip of garden, gives no opportunity for those many employments, half work, half play, that occupy the children of petty cultivators and cottiers.[1] So, in

[1] The change that has come over the Eastern Counties, among other things the change in the condition of the children, is narrated by Dr. Jessopp in *The Nineteenth Century*, August 1881. Thirty years ago the young people could have interest and amusement with the donkeys, the cows, and the geese kept by their parents; there was the

default of all rational recreation or occupation, the boys and youths have two main forms of amusement. One is to stand or sit in groups at the corners of the village streets, and watch all that passes, addressing the passers-by, when there seems a safe opportunity, with rude and ribald jesting. The other is to wander about with the girls. And soon the youths can add a third form of amusement, that is to be their chief solace in subsequent life, the frequentation of the public-house.

§ 174. What the second recreation brings with it is easy to see. A recent witness speaks of how, casting his mind back over several years, he can but recall two weddings that have not been hastened by the approaching confinement of the bride; and how these exceptions prove the rule, since in one the bridegroom was nearly eighty, in the other the bride was past sixty.[1] And now this reparatory kind of marriage is no longer to be expected Let us hear again that excellent observer of his own times, Dr.

chance of hunting for rats and weasels, snakes and hedgehogs, sometimes even rabbits and hares. Now all this is over, and the dull life of the elders, with nothing but gossip for the women and the public-house for the men, is reproduced among the children, who play marbles in the gutter in dread of the road surveyor (p. 270). He has actually seen children crying because the school was shut for the holidays, and they had nothing to do at home and no place to play in (p. 274).

[1] "A Villager" in a long communication in *The Daily News*, 16th September 1884, in which he describes the decline of village mirth and the miserable substitutes for healthy recreation.

Jessopp (in the *Nineteenth Century*, August 1881, pp. 273, 274)—"Thirty years ago marriage also followed as a matter of course, and a man was looked upon as a bad fellow who delayed to 'father his child' by making the mother his wife. Of late years this remnant of honourable sentiment has been dying out, and . . . female prostitution in country villages is by no means uncommon. The young men have no houses to bring their wives to; the young women will not be content with the ruinous hovels. So the child is born, weaned, and left with the grandmother; the young fellow slinks off into the town or takes 'a job' in some remote county—the order of affiliation is never served, and the girl goes out to service, *or* she hangs about the village with nothing to do, and hoists her flag again in hopes that sooner or later she may capture some weak besieger of the citadel, and be made an honest woman of by bearing another's name. If this should not happen, . . . and if youth passes, . . . she has still another chance. A labourer finds himself suddenly a widower with three or four young children and no female to look after them. What is he to do? The natural course would be to marry again. Formerly this used to be invariably done, and usually with very little delay. Now he tells you he can do better than that. He takes a *housekeeper*, and pretends he means to look out for a wife. He has not the least difficulty in finding the *housekeeper*, and forthwith new relations are entered into. *He* has

nothing to gain by marriage—nothing as far as he can see—and something to lose by tying himself for life to a woman whose antecedents will not bear looking into, who has perhaps two or three children that may be anybody's, and whom, moreover, he has in his power as long as he can dismiss her at a week's notice."

§ 175. Can we wonder that crowds of young people quit such miserable homes, so dull and hopeless a country life, for the town, and that the rural districts of England are in general (as the Census returns show) declining in population. The young have not the memories of a happy childhood, the presence of a happy home, the sense of duty to their parents, to keep them back; nor have they gained that love for country life and its pursuits, that clinging to the soil, which is so common among the country-born elsewhere. The energetic and laborious have no prospect of advancement or a secure and happy old age if they stay in their native village. So a select few go to rise. But most who go are in quest of pleasure; and on these emigrants from the village let us cite Dr. Jessopp once more:—"The young men, having once broken away from the parents' nest, acquire roaming habits, go to the 'pits,' run up to London for a spree, become navvies, and speedily learn the coarse vice and foul language of the society into which they have plunged; and if they come back to

their birthplace, they come back brutalised, unsettled, reckless; always with empty pockets, and . . . denouncing every class except their own. . . . But these men do not marry; too often they return at thirty, broken-down sots and badly diseased," spreading poison both physically and morally. But they are not likely, if they do return to the village, to rest there long. For these excavators or navvies, who are so conspicuous a feature in our large towns and on all great works, have been well described by one in a position to know them,[1] as "physically among the finest men in England, but in their habits thriftless and nomadic, who gradually glide downwards until eventually they become tramps and inmates of common lodging-houses and casual wards. They all come from the land. They are chiefly farm labourers' sons, who are attracted by high wages to go from one kind of public works to another, seldom marrying or accepting any settled pursuit." This class of emigrants from the country form one contingent among the labourers of the town, to whom we now turn for a second example in England of family life among those who have lost Christianity.

§ 176. One-half, probably much more than one-half, of the common labourers of London, and petty dealers in the same social rank, may be said, I think,

[1] The son of an agricultural labourer, cited by Mr. J. F. Boyd in *The Times*, 21st November 1883 ("Letters on State-Directed Emigration").

themselves and their homes, to show the following characteristics :—

First, they deserve to the full the beautiful epithets that have of late been added to our language, undenominational and unsectarian. They are above narrow creeds and dogmatic teaching; nor do their tenets of theism, deism, or atheism require, and they do not give, attendance at chapel or church.[1] And they are mostly free from political as well as religious superstitions, and are not to be awed or moved by phrases like Lawful Authority, Love of Country, Rights of Property, any more than by the Decalogue, the Gospel, or the Church. Indeed they have mostly discovered the real state of the case and the origin of civil and religious authority. A few men by combined force and fraud monopolise the good things of this world, and set up the State to secure them in their enjoyment. And then, as a masterpiece of policy, they invent the next world, with its rewards and punishments, to serve as required, either as a soothing syrup to quiet the discontented and disinherited masses, or else as a scarecrow to terrify them into submission. Only now the time for playing these tricks is over.

§ 177. Secondly, these labourers are not tied in

[1] See some figures in the well-known (Nonconformist) pamphlet, *The Bitter Cry of Outcast London*, 1883, p. 3, *e.g.*, in two localities observed the inhabitants numbered 2290 and 4235, the churchgoers 135 and 39.

bonds, like the upper classes, by the institution of marriage. Let us hear a recent witness :—"Marriage as an institution is not fashionable in these districts. Yet . . . so long as neither the hospital, the prison, nor the churchyard effects a separation, the couples are fairly faithful, and look upon themselves as man and wife. . . . Both . . . exhibit great reluctance to 'break' of their own free will, and it is marvellous [nay, rather a witness to the natural sanctity of marriage, *supra*, § 103] to see the tenacity with which a decent hard-working woman will cling to a ruffian who spends her earnings and blackens her eye as regularly as Saturday night comes round, although he has not the slightest legal claim to her allegiance. If you ask the couples who live happily together why they don't get married, some will tell you frankly that they never gave it a thought, others that it's a lot of trouble, and they haven't had time" (G. R. Sims, *How the Poor Live*, pp. 25, 26). Still, desertions of husband by wife and of wife by husband, both when they are legally bound together and when they are not, are no rarity. "Those who appear to be married are often separated by a mere quarrel, and they do not hesitate to form similar companionships immediately" (*Bitter Cry*, p. 7). Besides this there is a sort of community of husbands and wives; for, as Mr. Sims tells us (*How the Poor Live*, p. 24), when a husband is taken to prison, or (I gather) if he is absent any time for any cause, his place is almost

invariably taken by another man—one of those nomadic husbands who wander about from family circle to family circle, ready to replace its absent head at a moment's notice. A little child of eight coming to school with at last a new pair of boots, and asked where she had got them, answered, "One of my fathers give 'em to me, mistress; the one what's at home this week." On which Mr. Sims pertinently remarks that this father must have been better than most of his kind. For the new-comer is not generally friendly to the children of his predecessors. And this brings us to the third characteristic, the hideous aspect of their homes.

§ 178. In the autumn of the year of grace 1883 the Christian people of England were much moved by a series of disclosures concerning the wretched and un-Christian state of the dwellings of the poor; and for a time even the world of fashion took an interest in prospects of horror and projects of reformation. But the horrible facts in the main were not new, and had been known for thirty or forty years before, and there had been previous outbursts of sympathy and legislation. No wonder, then, we may doubt whether the new sympathy and any new laws will work better than the old; and no wonder we find one of the leading English journals speaking of the housing of the poor as "the insoluble problem of the day" (*The Spectator*, 16th May 1885). Whether it is insoluble by After-Christians

we have not to inquire; only to notice the fact of the almost incredible squalor and overcrowding, scarcely any family with a really decent home, numberless families with only one miserable room apiece, whole houses parcelled out into such rooms, multitudes resorting, for want of such "homes" as these, to the common lodging-houses, the horrors of which, as well as of those homes, any one who has seen them will say cannot be believed till they have been seen.[1]

A fourth characteristic of domestic life is the institution of the gin-palace, in which the men and women of the class I am considering take their chief recreation, and where filthy talking and blasphemy, brawling and drunkenness, have their chosen home. I need not say more of the drink-shops except that they are frequented,

[1] The descriptive literature of the dwellings of the poor has become enormous, and perhaps may be classified into three main groups, all springing from or leading to parliamentary reports. First, the group over thirty years back, and whose chief writers were Pashley and Kay; secondly, the group represented by Mr. J. Hole (*Homes of the Working Classes*, 1866), Mr. Mayhew (*London Labour and the London Poor*, 1861), Mr. James Greenwood, the 'Amateur Casual,' and Miss Octavia Hill; thirdly, the modern group, among which Mr. Sims' book, *How the Poor Live*, with its excellent illustrations, ought to hold a high place. But again let me repeat the caution already given (§ 172), not to expect too much from the physical reformation of the dwelling-places. For families to have but one room apiece is not the cause of their degradation, and need not be the occasion. "It is astonishing," says Mr. Crowder in *The Times*, 3d November 1883 (and he has experience), "what comparative decency and comfort is attainable in a single room when the wife is capable and cleanly, and when the water-supply, drains, laundry, and other surroundings are under continuous supervision."

willingly or unwillingly, by no small number of children. And this brings me to the fifth characteristic, that might have been anticipated from what I have already said, the cruel or neglectful treatment of children.

§ 179. "The child misery that one beholds is . . . appalling. . . . From the beginning of their lives they are utterly neglected; their bodies and rags are alive with vermin; they are subjected to most cruel treatment; many of them have never seen a green field, and do not know what it is to go beyond the streets immediately around them, and they often pass the whole day without a morsel of food" (*Bitter Cry*, p. 13). Study the police reports and coroners' inquests, and it is startling how many cases you find of children dying or half-dying of starvation because the parents spend their money on drink instead of on food and clothing for their children. And the cases brought to light represent a larger number that lie hid. The same may be said of the many examples of brutal violence, beating and kicking the children in drunken fury or sober malevolence;[1] and mark that the frequency of step-children, due to the habits of marriage I have spoken of, adds to the likelihood of ill-

[1] Extreme youth is no protection. A father, who, by the way, was a teetotaler, "book-learned," and an atheist, was found in 1885 to have almost beaten to death his boy of two and a half years old, and even his still younger boy of under twelve months old. The offence given by the last was that of disturbing his father's sleep. See *The Tablet*, 29th August 1885, p. 323.

will. Sometimes children are let or sold to professional beggars to be paraded in rags and emaciation to get the money of the benevolent. Sometimes they are given over to be trained with shocking cruelty as acrobats and "contortionists." Sometimes, worse still, the children, instead of being shielded from evil by their parents, are apprenticed to crime and vice. And although virtue can be preserved on the stage, still the theatres, the music halls, and the multitude of public-houses with music and dancing licences are sources of premature corruption to the thousands of wretched children who are employed there to act, to sing, or to dance; and their ruin is so likely that a good parent would rather, as one of them said, see his children in their coffins than allow them to earn their bread, as the phrase is, "on the boards."[1]

§ 180. Sometimes children are simply cast out into the streets and left to shift for themselves. The life led by many of these has been so well described by Mr. Rice Jones, a Protestant clergyman in St. Giles's, that I will give the description in full (from a letter on "Underground London" in *The Times*, 30th May 1884):—

"That certain localities are the haunts of large gangs of lads and girls, who spend half the night in the streets, and give much trouble to the police, is a fact which has long been notorious. But it is not so generally known that the

[1] See p. 181 of the small but heartrending volume entitled *Pantomime Waifs*, by Miss Barlee, London, 1884.

reason why many of these young people infest the streets and become law-breakers is that they have no homes. The truth is, however, that many of them are real outcasts. They have been cast out of the only homes they ever had by their own fathers, not necessarily for misconduct, but simply because they were felt to be incumbrances. And this is the greatest misfortune to hundreds of poor children in London, that their fathers are known, or supposed, to be still living. Had they been orphans they might have had the advantage of a good early training in some charitable institution; but because they are unfortunate enough to have fathers alive, they are ineligible for admission into the ordinary industrial schools, and are left to shift for themselves, sometimes at a very early age. The natural consequence is, that they become street Arabs, and band together—boys and girls—for mutual protection, amusement, and in some cases for mutual help.

"But what becomes of these homeless ones after they leave the streets? That is the question to which I now more particularly wish to call attention. Where do they sleep? Sometimes in threepenny lodging-houses, sometimes on door-steps, and very often in the passages or on the staircases of houses let in one-room tenements to people of their own class. But the majority of the street Arab fraternity generally prefer quarters where they are not so likely to be interfered with or disturbed. So they now utilise the empty cellars which were formerly occupied by poor families, but which have been condemned by the sanitary inspectors as unfit to live in. And when they have ended their night's revelry in the streets, it is

in these underground holes that they mostly take refuge, boys and girls together, some of them being mere children.

"The poor people who live in such houses are not all bad people. But the hardships which they themselves have gone through have made them blind to the consequences of such irregularities; and so, in spite of sanitary inspectors, and the police to boot, they allow the cellars of the houses in which they live to be used nightly in the way I have pointed out.

"Nor are the boys and girls who lead this kind of life all thieves, or so utterly depraved as to be past reclaiming; on the contrary, many of them, although they have been dragged up in habits which lead to crime, still retain in themselves the makings of good and useful citizens.

"This district, where I work and live, is teeming with such young outcasts. It is, in fact, a sort of human rabbit-warren. But it is a mistake to suppose that the evil can be remedied by setting on the School Board officers, sanitary inspectors, and police to hunt these outcasts down, or by making a general clearance of the dens in which they take refuge, and erecting in their places model buildings for people of a more respectable class. Society would gain no advantage by merely transplanting St. Giles's to another part of London, even if it could be done. Nor will mere Board School education, admirable as it is in many respects, ever be found to be an effectual remedy for the evils we deplore. One of the most hopeless *gamins* I know—a boy who, if he did not look so young, might well personate the 'Artful Dodger'—has passed the fifth standard, and snaps his fingers with impunity at the School

Board officers. And there are many like him. These boys have a literature of their own—a literature which is becoming more and more bold in its advocacy of the doctrines of communism."

§ 181. These outcasts, it is true, are only one section of the young; but I doubt if they are much or at all worse off morally and physically than the children who are brought up in those abominable homes. No wonder, for there is need of it, that there is a society with the tell-tale title, "For the Prevention of Cruelty to Children." No wonder, for there is need of it, that Christians have set up a multitude of "Homes" to receive the After-Christian children rescued from the streets or from the worse custody of unnatural parents and kindred. But for one rescued a hundred remain. And they grow up many of them, not stupid in their vice and illiterate, but with only too much adroitness and knowledge. We have just been told that their literature is communistic. But this is a trifle, and can be unlearnt. Not so the tales they can buy for twopence or a penny, tales the best of which are frivolous, deceiving, and unwholesome, and which descend from bad to worse, from tales wherein successful theft and profligacy are held up to admiration, to books the very titles of which cannot be named in decent society—an appalling, greedily devoured literature of profanity and filth.[1] And so they grow

[1] See chap. vii. of *Pantomime Waifs*, on "Cheap Low-Class Literature."

up to be men and women, and live, God knows how.

In brief, to quote once more *The Bitter Cry*—"Incest is common, and no form of vice and sensuality causes surprise or attracts attention" (p. 7). "No respectable printer would print, and certainly no decent family would admit, even the driest statement of the horrors and infamies discovered in one brief visitation from house to house" (pp. 2, 3).

§ 182. We have seen enough; and let us hasten and flee away from the abodes of abomination. But let us take heed lest we be followed. I am not speaking of the thieves and prostitutes, but of those known as "roughs." At present indeed the poorer classes suffer rather than the rich and respectable. Thus Eliza Newland, fifty-six years of age, died in Bethnal Green Workhouse from having been "deliberately knocked down and kicked by a gang of youths in Church Street" (*The Times*, 7th August 1882). And a little before we are told (*Ibid.*, 1st June)—"Bank Holiday was celebrated on the River Lea in such a manner that the police books for the district teem with cases of robbery, assault, and death. Gangs of roughs patrolled the banks, or, seated in boats, went up and down the river, molesting every one with whom they came into contact." But is there anything in the nature of things to keep these exploits within the narrow limits of Bethnal Green and the River Lea?

Or will infatuation lead any one even now to look for a remedy in "undenominational" schools? or to imagine that these ruffianly youths are without elementary learning? Nay, as knowledge is power, they already know too much. Look at Australia once more, and read the writer to whom I have previously referred (§ 169). In Victoria, he tells us—Victoria, remember, with "free, compulsory, and secular education" in thorough After-Christian fashion—there is a new social danger, for which the new term *Larrikinism* has had to be invented. The "larrikins"—we must not call them "roughs," for they are "educated"—move about in gangs with whom the police cannot cope. They insult and rob, break into hotels and have free drinks; in their younger stage frighten women and kick Chinamen. They sympathise with criminals, and cannot be dealt with by severe punishments, because their votes turn the scale at the elections.[1] True, in Adelaide, the capital of the neighbouring colony of South Australia, the police have still the upper hand. But precisely this colony has been a Puritan centre, and in Adelaide we are told that Philistinism and narrow-mindedness still prevail, and that the churches are so numerous as to excite the ridicule of the Victorians.[2] Religion, in fact, is still a power in South Australia; ungraceful, perhaps, and prejudiced, but still religion.

[1] Twopeny, *Town Life in Australia*, pp. 98–100.
[2] *Ibid.*, pp. 120, 122, 123.

Conclusion.

§ 183. The foregoing studies of families, Fore-Christian, Christian, and After-Christian, seem to point to a notable conclusion. And it is this, that if Christianity is abandoned by any large body of men, they cannot, as far as our experience goes, revert to the highest forms of family life seen among Fore-Christians, much less evolve a happier, healthier family life of their own, but revert to the lower forms among Fore-Christian families. Individuals, no doubt, may quit Christianity, and retain domestic affection, purity, and peace; but not masses of men; and it is with masses, not with individuals, that social science is concerned. Any one can see for himself how striking are the resemblances in home life between the After-Christians among the modern European races we have just been examining, and the classical Romans and Greeks, described in the first part of this volume. The other great branch of After-Christians, namely the Mohammadans, though very different in many externals from the classical and the modern rationalists, are very like them in the main thing, in their moral depravity and wretched home life. Moreover, those who cared to examine would find the worst abominations of degraded and outcast races repeated in our midst and in Islam; so little do these matters depend on whether a society is civilised,

semi-civilised, or uncivilised; so much on whether God is rightly worshipped (*cf. supra*, §§ 90, 98). Irreligion and misreligion bear the same fruit, and both fall under our anathema.

§ 184. Nay further, for it is a time to speak plainly, we say that light, and wisdom, and power, in all matters of morals, and therefore, what now concerns us, in all matters of family life, belong to the Church of Christ, and that everywhere without there are the signs of darkness, or weakness, or folly. We see in one place the honour due to parents exaggerated into idolatry, their power exaggerated into the right to take the life of their children in infancy, or to prohibit, as they grow older, their marriage or religious profession. We see in another place a miserable deficiency in parental power, a disobedient youth, precocious independence, a desolate and dishonoured old age. Again, instead of reasonable union and mutual support and affection among kindred, we see, now a superstitious attachment that puts kindred first and God second; now a melancholy deficiency of the fraternal bond, that allows each family to be quickly dissolved and brethren to be to each other as strangers. Again, in the relations of men and women, we see outside the Christian Church a region of darkness and passion. The subordination of the wife to the husband is distorted, and she is made a plaything or a drudge. The equality of men and women is dis-

torted, and the two sexes are treated as though they were not merely equal, but alike. The bonds of marriage are found too burdensome for passion, and have to be enlarged by polygamy or divorce, and even then are found too narrow. Whereas the Christian religion preserves in family life, as in other matters, the golden mean between excess and defect, and tells us the plain truth about human nature and our position as created beings, and will not suffer us to reason as though we were our own masters and had made ourselves; but tells us that this is unreasonable, like silly children who argue when they should listen and learn; nor again will suffer us to live in a fool's paradise, and sustain our domestic virtue or our patriotism by sentiments, impulses, prejudices, superstitions; but dissipates these mists, and gives us a reasonable ground for our conduct, being the only reasonable religion, equally remote from the cynic and the fanatic.

§ 185. Finally—and this is a very practical matter, and the issue of this book—we say that the highest and best family life possible for man is reached by Christianity, and that there is no evolution beyond, unless we call evolution a descent into an abyss. And we say, and this will hardly be denied, that for the great bulk of mankind, who must toil for their daily bread, there is in this world no source of happiness, no recreation from their toil, to be compared to that

afforded them by a good family life, that is, by a home where, between husband and wife, parents and children, brothers and sisters, there is union, affection, and peace. The cultivated and wealthy few may make up in some sort of way for the lack of these by an abundance of sensual and intellectual enjoyments. But these substitutes—they are but sorry substitutes—for a happy home, cannot be got by the great multitude. Hence it follows that those who would overthrow the Christian family are the arch-enemies of the happiness of the great multitude, and this in spite of all their protestations, all their professions of benevolence.

It has often been pointed out that by taking away from the poorer classes the sure hope of a future life, with its rewards and punishments, you have taken away the chief reason for their patience under the trials, and submission under the inequalities, of the present life, and that you prepare the way for outbreaks of Communism. This is quite true; but there is something more. The teachers of irreligion have not merely robbed the poor of their prospective inheritance, of the hope of goods to come; they have done more, and robbed them of the chief of their present goods, their Christian home life. It is an incomparable loss, for which all the devices of Socialists, and State Socialists, and Philanthropy, all the panaceas of State insurance, free schools, free libraries, free museums, free entertainments, free land, all grants, and subsidies, and franchises, and flattery, are worth

nothing as a compensation. How can you compensate for freezing up men's hearts, for putting discord instead of peace, for putting indifference or dislike, instead of filial piety and brotherly love?

§ 186. Let us not, therefore, deceive ourselves about the choice that lies before us. We cannot alter the past, or be as though England (and the case is the same for America) had never been a Christian country, never had the light. We must of necessity be either Christian or After-Christian. We may follow if we like the new doctrines and leaders, and clothe ourselves with the shreds and tatters which they have ingeniously manufactured into a kind of shoddy religion of literature, humanity, or science. Only let us not think this make-belief creed will be any refuge in sorrow, any restraint upon passion. We shall get no more help from it than they got in rationalistic Athens and Rome from the worship of Pallas Athene and the Capitoline Jove. It is not a mere accident that so many of the After-Christian heroes like Rousseau and Goethe, Shelley and Schopenhauer, appear so shocking in their private life. It is not a mere accident that the popular writers of After-Christian France, in the writings they miscall naturalism, have surpassed in filth the writings which the later Greeks were plain-spoken enough to call pornography. These are signs of the times; and the Daniel we met a little way back (*supra*, § 172), with his philosophy of much hate

and no love, is also a sign of the times. Belief in man will go when we have given up belief in God, and affection will be as little at home among us as chastity. Nor let any one flatter himself with dreams of philanthropy. For we must not hide from ourselves the truth, as a wise man has put it, that worship is the only real incompatibility with self. But our new teachers forbid all genuine worship. Thus to seem not to seek ourselves is only more elaborate self-seeking; and philanthropy without God appears at best but self-delusion and folly.

The Christian home likewise partakes of the nature of the Christian religion; and drawing all its virtue from on high, appears as an image and an earnest of what is to come. The union of husband and wife, the authority of the parents, the obedience of the children, the order and affection, are fore-gleams of the eternal peace and indissoluble love in the home of the heavenly Father.

These doctrines indeed of the Christians we may disbelieve, and their mode of living we may dislike, and may follow other ideals and aims. We may choose or we may reject the Christian faith and rule of life; and so far we are free, so far we have a choice. But the consequences we cannot choose.

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